



Jeffrey A. Nein, AICP  
(703) 456-8103  
jnein@cooley.com

BY HAND DELIVERY

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October 10, 2007

Michael S. Elabarger  
Project Manager  
Department of Planning  
1 Harrison Street, S.E., 3rd Floor  
Leesburg, Virginia 20177-7000

**RE: ZMAP 2005-0024/SPEX 2006-0035, Belmont Overlook  
Response to County Review Comments**

Dear Mike:

This letter includes our response to the staff review comments we have received regarding the October 17, 2006, application submission. Please note that the swimming pool amenity has been removed and that the proposed unit count is now 149 attached units, including required ADUs.

Enclosed please find 15 copies of the revised proffers, clean and comparison copies, and 15 copies of the updated Statement of Justification and proposed development conditions. Fifteen copies of the revised rezoning plans and the special exception plat will be delivered to you today under separate cover.

The staff review comments are addressed below in chronological order. Each agency's comments are summarized (noted in *italics*) and followed by our response.

**Loudoun County Public Schools (comments dated 12/4/06)**

*The school facilities presently serving the Belmont Overlook parcels (2006-07 academic year) are Legacy Elementary School, Eagle Ridge Middle School and Briar Woods High School. Staff would request that the applicant correct the public school facilities notation in future documentation.*

The school notations in the rezoning plan set have been revised to reflect the current attendance boundaries shown on the County School's website.

**Virginia Department of Transportation (comments dated 1/4/07)**

1. *The applicant should provide frontage improvements for Belmont Ridge Road, Route 659. At a minimum, the applicant should construct one-half of the ultimate section of this road with turning lanes. Proffers should be revised accordingly.*

The draft Proffers and the Concept Development Plan ("CDP") do provide for the CTP recommended right-of-way dedication for Route 659 and for the construction of turn lanes to

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serve the Property entrance. In addition, the Applicant has proffered a regional road contribution that may be used for the ultimate Route 659 improvements.

*2. Entrance location should be adjusted at this time to accommodate turning lanes as stated.*

The entrance on Route 659 is at least 1,000 feet north of the Route 659/Alford Road intersection and is at least 1,400 feet south of the Route 659/Waxpool Road intersection, and is consistent with VDOT spacing criteria for median crossovers.

*3. If a divided commercial entrance is proposed for the development, it should conform to VDOT minimum standards. The minimum and maximum width of the one-way (divided) entrance should be 14' and 20' respectively.*

Comment acknowledged. The construction plans will conform with VDOT minimum standards.

*4. The existing Alford Road should be relocated as ninety degrees to Route 659 and aligned with the road across the street in the Villages of Waxpool. The minimum width of shoulder for this road should be 4' if the traffic volume is not projected to exceed 400 vpd. Again proffers and plat should be revised at this time to avoid complication in future.*

The CDP and the draft Proffers have been revised to provide the requested realignment.

*5. The applicant should ensure that a "spite strip" is not created between the right-of-way (existing or proposed) and the property line.*

The CDP has been revised to address this comment.

**Department of Fire, Rescue and Emergency Management (comments dated 1/17/07)**

*Staff requests further information regarding the proposed emergency access off Belmont Ridge Road to ensure that it would be adequate to support the weight and width of emergency vehicles. Staff further recommends that a similar emergency access be considered for lots 121-145.*

The CDP has been revised to provide the requested additional emergency access and the draft Proffers have been revised to clarify that the emergency accesses will be constructed to accommodate emergency vehicles. Please see Proffer VIII.C.

**Office of Transportation Services (comments dated 1/17/07)**

*1. Using the most recent VDOT cost estimates for constructing a half section of a 4-lane median divided road, OTS estimates that the cost of a half section along the applicant's Route 659 frontage would be approximately \$2.5 million in 2006 dollars. The applicant's suggested contribution is \$5,000 per units for a total of \$725,000. Plus, the funds would not result in any*

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*new pavement on Route 659 for a long time. There may be opportunities for coordination with Brambleton to the south or the Route 659 Road Club to the north.*

The Property is burdened with a lengthy Route 659 frontage, approximately 3,000 feet, and a limited development area, which results in an unreasonably high per unit cost for the suggested regional road improvement. The Applicant has increased its regional road contribution to \$6,900 for a total contribution of \$1,028,100 based on the current yield of 149 units. Please see Proffer V.C. The Applicant is willing to discuss road construction options with staff in lieu of a cash contribution provided that staff will support a credit of the full value of such road improvements against the application's anticipated capital facilities contribution.

*2. The applicant should coordinate with Brambleton to the south or the Route 659 Road Club to determine where the half section of Route 659 should be located.*

The Applicant has met with a representative of the Route 659 Road Club and learned that the road improvements contemplated by that group are much further to the north of the Property and would not immediately benefit the Property.

*3. Regarding cash-in-lieu of construction, Using the most recent VDOT cost estimates for constructing a half section of a 4-lane median divided road, OTS estimates that the cost of a half section along the applicant's Route 659 frontage would be approximately \$2.5 million in 2006 dollars. The applicant's suggested contribution is \$5,000 per units for a total of \$725,000. Plus, the funds would not result in any new pavement on Route 659 for a long time. There may be opportunities for coordination with Brambleton to the south or the Route 659 Road Club to the north.*

As noted above, the Applicant is willing to discuss road construction options with staff in lieu of a cash contribution provided that staff will support a credit of the full value of such road improvements against the application's anticipated capital facilities contribution.

*4. The applicant has proffered turn lanes on Route 659 at the site entrance and at Alford Road as recommended. Issue resolved.*

Comment acknowledged.

*5. Until the Route 659 frontage improvements are constructed or cash in lieu of construction is paid to the County, the applicant should only construct the allowed by right number of units. Please see comment 1.*

In addition to cash contributions for regional road improvements and traffic signals, the Applicant has proffered to construct turn lanes for the Property's main entrance on Route 659 and to realign existing Alford Road. The proffered road improvements will be constructed prior to the occupancy of the units that will be served by the improvements.

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6. *As currently shown on the rezoning plat, warrants for a signal for the intersection of Route 659/Alford Road will not be met. However, the applicant may need to provide another entrance on Alford Road since the majority of the residential units are located on the north section of Alford Road.*

The draft Proffers have been revised to allow the signal contribution to be used for either the site entrance or the Alford Road intersection or for another nearby intersection on Route 659, as determined by the County. A connection to Alford Road for the northern portion of the Property is not practical due to environmental and other property constraints.

7. *The applicant should provide a cost estimate for constructing 8' trail along the property's frontage based on the most recent VDOT cost estimates for urban typical section bikeway trail at the frontage of the site along Route 659.*

The draft Proffers and the CDP have been revised to provide the recommended 10-foot trail.

8. *The applicant will proffer \$750 per unit for transit improvements as recommended. Issue resolved.*

Comment acknowledged.

9. *The proposed entrance to the property meets VDOT's spacing requirements for crossover locations. Issue resolved.*

Comment acknowledged.

10. *Alford Road should have an urban typical section, meet VDOT standards and align with the road entrance at the opposite side of Route 659.*

The CDP has been revised to provide the requested realignment for a two-lane rural typical section.

11. *The applicant will proffer a noise impact study as recommended. Issue resolved.*

Comment acknowledged.

12. *The reported ADT was due to a calculation error. The correct ADT is 31,890. Issue resolved.*

Comment acknowledged.

13. *The Emergency Access can be eliminated if the applicant provides another entrance on Alford Road.*

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As noted above, another entrance on Alford Road is not practical due to environmental and other property constraints.

**Zoning Administration (comments dated 1/23/07)**

*1. Add to the Sheet 4 notes that the ADUs will reflect the overall mix of the market rate units. Also provide a breakdown of the unit types per market rate and ADUs. Define "town home villa" as it is not a term recognized by the Ordinance. Provide a typical to ensure that it meets the SFA definition. In addition, add it to the Map Legend on sheet 3.*

The CDP has been revised to refer to all proposed units by terms used in the Zoning Ordinance.

*2. The applicant states on sheet 4 that a total of 53,000 sf of active recreation space is provided; however, staff is unclear how this amount is calculated when the active recreation parks total 25,500 sf plus the pool of roughly 8,000 sf. Provide a calculation of how the total was derived to demonstrate that the minimum is being met.*

The CDP has been revised to note the active recreation space requirement. Compliance with this requirement will be demonstrated with the site plan application.

*3. The proposal only offers one housing type (single family attached) and no multi-family units. Further there are no non-residential uses. The proposal does not meet with purpose of the PD-H district (§4-101).*

The PD-H district allows for a mix of residential and non-residential uses, but does not preclude "single use" districts. The application does provide for different types of single-family attached units and does include an existing non-residential use – the telecommunications tower.

*4. Demonstrate that no building will project through the imaginary plane along the PD-H district boundary (§4-109(E)).*

An exhibit has been added to Sheet 5 to demonstrate compliance with this requirement.

*5. There are several stubbed streets that do not provide safe and convenient access for large vehicles, such as at the end of units 50/51, 38/39, and units 126, 136 and 145. Staff recommends additional emergency access or an alternative street pattern (§4-110(C)).*

The Illustrative on Sheet 4 demonstrates how turn-arounds may be provided for the noted areas with the site plan application. The CDP has been revised to provide a second emergency access, as recommended.

*6. The applicant states that 20 acres of the 39 being rezoned is open space; staff is unclear how this amount is derived (§4-111(A)).*

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The CDP has been revised to note the minimum 30% open space requirement. Compliance with this requirement will be demonstrated with the site plan application.

*7. Add to the Notes on Sheet 4 that the HOA will conform to Section 4-111(B)(1)(b)(i) – (iv).*

Note 25 on the Cover Sheet has been revised to address this comment.

*8. Revise General Note 6 on Sheet 1 as it states the wrong number of units proposed.*

The referenced note has been corrected.

*9. Revise General Note 11 to state that "All canopy requirements will be met per 5-1300" and that existing trees may be used to satisfy landscaping requirements as approved by the Zoning Administrator or her agent".*

Note 11 has been revised as suggested.

*10. On sheet 3, provide the size of the pool and its recreation area. In addition, in the Proffer Statement provide the minimum pool size.*

Sheet 3, the CDP, has been revised to depict the approximate limits of the development areas. The pool has been removed from the Application.

*11. Revise the Proposed Zone in the Overall Site Plan Summary tabulation on sheet 4 to state that the property is to be rezoned to PD-H4, administered as R-8.*

The CDP has been revised as suggested.

*12. Per 5-1101(A), only off-street parking counts toward the fulfillment of required parking; therefore, revise the parking tabulation on sheet 4 to indicate that 435 spaces (garage and driveway) are provided toward the requirement and that an additional 194 on-street parking is provided.*

The CDP has been revised to note that the site plan will demonstrate compliance with Section 5-1100.

*13. In the introductory paragraph of the proffers, state how many acres of each parcel where only a portion is included in the rezoning.*

A table showing the rezoning area of each parcel has been added to Sheet 2. The introductory paragraph of the proffers refers to Sheet 2.

*14. Remove the second sentence from proffer I., as the definition of substantial conformance permits minor adjustments as determined by the Zoning Administrator.*

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The referenced language is consistent with previously approved proffer statements (ZMAP 2005-0039).

*15. In proffer II., provide a break down of the units based upon type (i.e., duplex, quadruplex, town home villas, etc.).*

All proposed unit types are classified as single-family attached units and have the same capital facilities and ADU obligations. The CDP identifies the general locations proposed for the different unit types. The final number of each proposed unit type will be determined with the site plan and subdivision applications.

*16. State when the passive recreational facilities will be constructed and the size of the pool in proffer III.*

As stated in Proffer III, the amenities will be constructed in conjunction with the adjacent residential units. The pool has been removed from the Application.

*17. Several conditions of SPEX 2005-0022 were removed with the current proposal. Add back conditions 2 (with allowance for current development proposal), 4 (shown on the proposed plat), 8, 11, 18 and 19. In addition, be advised that some of the conditions of SPEX 2005-0022 were required by the Planning Commission and the Zoning Administrator in order to receive approval; therefore, those conditions continue to be applicable to this proposal.*

The area of the Special Exception has been reduced to correspond with the limits of the tower compound. Previously approved conditions 2 and 4 are now addressed by the CDP and proffers. Previously approved conditions 8, 11, 18 and 19 are no longer applicable as the County does have antennas on the tower, the existing tower site entrance does meet VDOT requirements, and County records indicate that permits have been requested for the antennas that were on the tower prior to the approval of SPEX 2005-0022.

*18. SPEX 2005-0022 condition #18 required that existing carriers obtain zoning permits. Cingular and Nextel have applied, but only Nextel has received approval. Loudoun County public service agencies were to be allowed space on the monopole. SPAM 2002-0045 showed Verizon, Sprint, and Voice Stream. Confirm the number of carriers currently on the monopole and ensure that they have received the appropriate permits.*

The County's records indicate that the County and Nextel have received permits to have equipment on the tower.

*19. Demonstrate that the proposed monopole is designed to accommodate at least 3 providers per 5-618(B)(3)(b).*

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It is our understanding that, as a tower, the existing telecommunications tower is regulated under Section 5-618(C). The approval of SPEX 2001-0023 and SPEX 2005-0022 for this tower demonstrate compliance with Section 5-618(C)(3)(b).

*20. Section 5-618(B)(3)(c) limits the height of the monopole and antennas to 199 feet. Proposed condition #5 states that no carrier shall be at a height greater than 199 feet without special exception approval. A prior SPAM indicates that the height of the existing monopole exceeded 200 feet. Provide the existing height of the monopole, and as the height may be modified by SPEX, staff recommends that if the monopole is above 199 feet that such modification be added to this application. Revise proposed condition #5 to state the current height.*

Proposed condition #5 reiterates existing condition #9 of SPEX 2005-0022. This application does not proposed to increase the height of the existing tower.

*21. Demonstrate that the monopole is setback one foot from the property line per every 5' in height per Section 5-618(B)(3)(e).*

The CDP depicts the 5 to 1 tower setback to demonstrate compliance with Section 5-618(C)(3)(e).

*22. The proposed SPEX plat indicates that there are 2 equipment shelters; confirm. Also, provide the maximum dimensions of the equipment shelters and height per 5-618(B)(3)(f). If the applicant wishes to have more than 2, show their location. Otherwise, the applicant may have to receive SPEX approval in the future to add more shelters.*

The CDP and the SPEX Plat reflect the tower compound equipment as located by field survey. No additional equipment is proposed at this time.

*23. Submit written and graphic documentation regarding the service area to be provided for by the proposal per 5-618(B)(3)(r).*

The referenced section pertains to proposed telecommunication facilities. This application does not propose a new tower.

*24. Provide photoimagery or other visual simulation of the proposal on the existing site per 5-618(B)(4)(a).*

The referenced section pertains to proposed telecommunication facilities. This application does not propose a new tower.

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**Loudoun County Sanitation Authority (comments dated 2/1/07)**

*1. At the construction phase of this project, the applicant may be required by the Authority to loop water to the existing facilities on the Church property.*

The Applicant will coordinate with LCSA regarding this matter during the construction phase.

*2. Should offsite easements be required to extend public water and/or sewer to this site, the applicant shall be responsible for acquiring such easements and dedicating them to the Authority at no cost to the County or to the Authority.*

Comment acknowledged.

*3. Detailed comments on the design of the public water and sanitary sewer facilities will be addressed during the Sanitation Authority's Utility Extension Request process.*

Comment acknowledged.

**Environmental Review Team, Department of Building and Development (comments dated 2/5/07)**

*Regarding Waters and Wetlands*

*1. Please add the following note to the Cover Sheet, "Jurisdictional waters and wetlands depicted on the plan were delineated by Wetlands Studies and Solutions and confirmed by Army Corps of Engineers JD #05-R0894 issued on April 7, 2005."*

The referenced information has been added to Note 19 on the Cover Sheet.

*2. The Army Corps of Engineers has indicated that opportunities to relocate BMP facilities outside of jurisdictional areas must be explored.*

The Applicant will explore such opportunities with the COE during the wetland permitting process.

*3. Staff recommends that a 50-foot buffer be preserved adjacent to all jurisdictional waters and wetlands to minimize the effects of the proposed development on jurisdictional features. Of particular concern are the residential lots located immediately adjacent to an area of forested wetlands south of Alford Road.*

The preservation of specific wetland areas will be coordinated with the COE as part of its permitting process.

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*Regarding the Beaverdam Reservoir*

4. *Staff recommends that the development layout be revised to preserve a 500-foot forested buffer adjacent to Beaverdam Reservoir. Staff further recommends that the preserved buffer be included within the designated Tree Conservation Area.*

The Applicant has committed to tree conservation areas adjacent to Beaverdam Reservoir and has committed to storm water management measures consistent with LCSA's Source Water Protection Program for Goose Creek.

*Regarding Forest Resources*

5. *The current Tree Conservation Area proffer does not outline a minimum area to be preserved (e.g., 80 percent). Staff recommends that the current proffer language be replaced with language consistent with other recently approved rezoning applications (e.g., ZMAP 2005-0013).*

Proffer VII.A. has been revised to incorporate the 80% preservation language.

6. *Staff notes that there are opportunities to preserve additional forest cover in the vicinity of Lots 137-145 by using existing vegetation to meet buffer requirements. Therefore, staff requests that this area be added to the designated Tree Conservation Areas.*

The proffered tree conservation areas have been expanded to allow for the use of existing vegetation to meet perimeter buffer requirements.

7. *Staff recommends that a commitment be provided indicating that the pine and cedar trees located within areas to be cleared on the property will be harvested (e.g. for pulpwood) rather than being destroyed.*

The Applicant will encourage such harvesting and other recycling methods where practicable.

*Regarding Stormwater Management and Water Quality*

8. *Due to the proximity of the project to Beaverdam Reservoir, staff recommends that a commitment be provided to implement the water quality protection tools identified in LCSA's Goose Creek Source Water Protection Program document "Source Water Protection Tools".*

Proffer VII.B. does provide such a commitment.

*Regarding Noise Impacts*

9. *Staff recommends that the proposed noise proffer be modified to be consistent with other previously approved Noise Impact Study proffers (e.g., ZMAP 2004-0008).*

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The proposed proffer is a reasonable response to the requested noise study and will ensure compliance with County highway noise policies.

*Regarding Digital Data*

*10. If digital wetland and cultural resources data cannot be provided prior to the approval of the rezoning application, staff recommends that a commitment be provided indicating that the digital files will be submitted in conjunction with the first site plan or preliminary subdivision plat.*

The proffers have been revised to address this comment. Please see Proffer VII.E.

**Community Planning, Department of Planning (comments dated 2/21/07)**

Land Use

*Staff finds that the proposed density is consistent with density called for in the Revised General Plan.*

Comment acknowledged.

Existing Conditions

*1. Forests, Trees and Vegetation*

*a) Forest adjacent to Beaverdam Reservoir. Staff recommends removal or relocation of lots 45-64 as shown on the revised CDP and extending the no-build buffer by 200 feet to preserve the vegetation adjacent to the Beaverdam Reservoir.*

The Applicant has committed to tree conservation areas adjacent to Beaverdam Reservoir and has committed to storm water management measures consistent with LCSA's Source Water Protection Program for Goose Creek. Please see Proffer VII.B.

*b) Trees surrounding the Telecommunications Tower. Staff recommends retaining the approved condition for SPEX 2005-0022, E.A.R., Ltd. Which states that "the applicant will maintain all existing trees within a 200-foot perimeter of the proposed telecommunications compound depicted on the plat."*

The proffered tree conservation areas do include all existing trees within 200 feet of the telecommunications tower compound, as per the approved conditions for SPEX 2005-0022.

*c) Additional Tree Save Opportunities. Staff recommends using forest cover in the vicinity of lots 137-145 for buffering and protection of adjacent wetlands. Staff further recommends a commitment to the preservation and maintenance of all Tree Conservation Areas during the construction and over the life of the project.*

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The CDP has been revised to expand the tree conservation areas. Proffer VII.A. provides commitments for on-going tree protection.

## *2. Waters and Surface Water*

*Staff recommends a 50-foot buffer around the wetland area proposed to be preserved south of Alford Road, in the vicinity of lots 126 and 136. Staff also recommends relocating the BMP wet/dry ponds to ensure there are no impacts to wetlands.*

Any impacts to wetlands will be addressed through the COE permitting process.

## *3. Historic Resources*

*Staff has reviewed the Phase I archeological report for the subject site. Staff's review of the submitted report will be sent under separate cover.*

Comment acknowledged.

## Site Design

### *1. Physical Design Guidelines*

*Staff recommends that single-family detached homes be provided along the western side of the development in order to provide for a variety of housing types and to decrease the density adjacent to the Beaverdam Reservoir. In addition, street lighting should be provided and fully shielded to reduce or eliminate glare and light trespass. Staff further recommends that an illustrative of the proposed streetscape and housing, including the quadraplex and townhome villa units, be provided to ensure that the design of the development is compatible with surrounding residential uses.*

As noted above, the application does include tree conservation and storm water management commitments to provide additional protection for Beaverdam Reservoir. Any street lighting will conform with the County's lighting regulations. With respect to the compatibility concern, we respectfully point out that other than the existing home on one of the parcels subject to this application, all other existing residential uses near the Property are located on the opposite side of Belmont Ridge Road, which is planned to be a 6-lane divided roadway, are at least 400 feet from any of the planned dwellings on the Property and are all oriented to face away from the Property.

### *2. SWM Facilities and BMPs*

*Staff recommends the incorporation of incorporation of additional water quality protection tools into the design of the SWM facilities. Staff defers to ERT regarding specific measures that could be used on site to protect the water quality of Beaverdam Reservoir. In addition, staff*

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*recommends the wet ponds be developed as year-round amenities with gazebos, picnic areas and landscaping.*

As noted above, the Applicant has committed to additional water quality measures to protect Beaverdam Reservoir. It is not known at this time if any of the storm water management facilities will be wet ponds.

### **3. Trail along Belmont Ridge Road**

*Staff recommends the applicant provide a 10-foot wide paved shared use path along Route 659, Belmont Ridge Road.*

The CDP has been revised to provide a 10-foot trail along Route 659.

### **Affordable Dwelling Units**

*Staff recommends that the ADUs be of various unit types and dispersed throughout the community, per Plan policy.*

The ADUs will be provided among the townhouse units and dispersed in accordance with the Zoning Ordinance requirements.

### **Capital Facilities**

*Staff recommends that the proposed capital facilities impacts be mitigated.*

The Applicant has proffered a capital facilities contribution consistent with Plan policies.

### **Parks, Recreation and Community Services (comments dated 5/9/07)**

*1. The Applicant should demonstrate how the recreational and leisure needs of the new residents will be met without further taxing the existing public recreational facilities in eastern Loudoun.*

The Applicant has proffered on-site playgrounds and sports courts, as well as picnic sites and gazebos, for the residents of this planned community. Please see Proffer III.

*2. The Property is in close proximity to Edgar Tillet Memorial Park, a future park in the Brambleton community, and the future Broadlands Recreation Center. PRCS suggests that the Applicant provide a cash contribution earmarked toward the further development of these PRCS public recreational facilities.*

As noted above, the Applicant has proffered on-site recreational amenities that address the zoning ordinance recreation space requirements and that will serve to offset the reliance of the

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future residents on public facilities. In addition, the Applicant has proffered a capital facilities contribution in accordance with County policies to mitigate the anticipated public impacts of the proposed community.

3. *PRCS recommends that the proposed 8' asphalt trail on the CDP be revised to a 10-foot wide, paved shared bicycle/pedestrian path along Belmont Ridge Road (Route 659).*

The CDP has been revised to provide a 10-foot trail along Belmont Ridge Road.

4. *PRCS requests clarification and additional detailed information on the proposed uses and amenities within the recreational areas shown on the CDP.*

Details on the required active recreation amenities will be provided at the time of site plan.

5. *The Applicant should demonstrate how the potential impact to wetlands will be mitigated.*

Wetland mitigation will be addressed through the COE permitting process.

6. *It appears that the Applicant is proposing to place the remaining portions of wetlands within open space. Staff recommends that the open space have a Resource Management Plan.*

Wetland protection will be addressed through the COE permitting process.

7. *PRCS strongly supports any efforts to protect and preserve wetlands, trees and native vegetation. Staff recommends that any substantial "tree save" area have a Forest Management Plan.*

The Applicant's commitment to tree conservation is provided in Proffer VII.A.

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We believe this response letter, the revised rezoning plans and the revised draft proffers address the review comments. We look forward to continuing to work with you on this project and having this case scheduled for a Planning Commission hearing in the near future. Please do not hesitate to contact me if you have any questions.

Very truly yours,

Cooley Godward Kronish LLP



Jeffrey A. Nein, AICP  
Senior Land Use Planner

Enclosures

cc: Danny A. Lyons, K. Hovnanian Homes of Virginia, Inc.  
William E. Fissel, P.E., Dewberry  
Christopher M. Tacinelli, P.E., Gorove/Slade Associates  
Antonio J. Calabrese, Esq., Cooley Godward Kronish LLP

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JEFFREY A. NEIN, AICP  
(703) 456-8103  
jnein@cooley.com

BY HAND DELIVERY

February 21, 2008

Michael S. Elabarger  
Project Manager  
Department of Planning  
1 Harrison Street, S.E., 3rd Floor  
Leesburg, Virginia 20177-7000

**RE: Belmont Overlook, ZMAP 2005-0024/SPEX 2006-0035**  
**Response to Review Comments on 10/10/07 Submission**

Dear Mike:

This letter includes our response to the staff review comments we have received regarding the October 10, 2007 application submission.

Enclosed please find 10 copies of the revised proffers (clean and comparison copies), and 10 copies of the updated Statement of Justification and proposed development conditions for the Special Exception. Ten copies of the revised rezoning plans and the special exception plat will be delivered to you under separate cover.

The staff review comments are addressed below in chronological order. Each agency's comments are summarized (noted in *Italics*) and followed by our response.

**Office of the County Attorney (comments dated 11/8/07)**

A. *In regard to the proffers for ZMAP 2005-0024:*

1. *In regard to proffer I., concerning the Concept Plan, I note that the applicant is only proffering conformance with Sheet 3 of the plan set. I suggest that consideration be given to Sheets 1, 5, 6, and 7 as well. I also note that it is the Sheet 4 Illustrative Plan that contains the most detail for this site, and which was previously included in the proffers. Ideally, this sheet should also be proffered.*

Sheet 1 only includes descriptive and background information for the Property to assist in the review of the Application. Sheet 4 is an illustrative exhibit that show a potential layout for the types of residential units proffered on Sheet 3. Sheets 6 and 7 are also illustrative exhibits that show potential locations for pedestrian and vehicular systems and for utilities based on the Sheet 4 illustrative. Sheet 5 includes illustrative typical sections of the intended private and public streets for the project. Detailed construction plans for all such streets will be submitted for the review and approval of the County and/or VDOT.

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2. *In regard to proffer III., in the sixth line thereof, the applicant has indicated that the recreational amenities will be constructed in conjunction with the development of the adjacent residential units. However, the specific amenities listed in this proffer are not shown on the Concept Plan and, therefore, it is not feasible to know when the adjacent residential development is being constructed. I suggest that either Sheet 4 showing the amenities be included, or that more specific trigger mechanisms be referenced.*

Sheet 3 has been revised to show the approximate locations of the specific active and passive recreational amenities referenced in Proffer III.

3. *In further regard to proffer III., in the last sentence thereof, the applicant has indicated the intent to construct a trail along Route 659 prior to the issuance of the 100<sup>th</sup> zoning permit, provided that the final design for the widening of Route 659 has been approved. This does not address what their intent is in the event the final design is not known at that time. I suggest that this be clearly expressed.*

Proffer III has been revised to provide for a cash contribution for the trail in the event a final design for Route 659 has not been approved.

4. *In regard to proffer V.B.1, concerning the dedication for Alford Road, I note that while the applicant has indicated the intent to dedicate right of way as shown on the Concept Plan, it is not clear whether this dedication is to occur along the Property's full length of frontage along Alford Road, or only to the entrance to the southern portion of the Property. I suggest that this be clarified.*

Sheet 3 of the CDP has been revised to show the approximate location of this right-of-way dedication.

5. *In regard to proffer V.B.2., concerning Alford Road construction, I note that on Sheet 4 there is a note indicating that some off-site right of way may be needed in order to construct the proffered improvement. If this is the case, then I suggest that the applicant assume responsibility for acquiring the necessary off-site right of way.*

Proffer V.B.1. has been revised to address the acquisition of any off-site right-of-way required for the improvement of Alford Road.

6. *In regard to proffer VII.A.2., in the eighth line thereof, I note that the applicant has indicated that if trees need to be removed, then they shall replace them with species, and in locations, to be determined by the applicant. I suggest that the species and location should be of the same general type and in the same general location as the trees removed, unless otherwise directed by the County.*

The proffer provides for consultation with the County Urban Forester with respect to tree species and location.

*7. In regard to proffer VII.C, in the next to last line thereof, I suggest that the phrase ", and ensure conformance with said standards," be inserted following the word "roadway".*

The referenced proffer has been revised as suggested.

*8. In regard to proffer VIII.A., in the eleventh line thereof, I suggest that the phrase "fire and/or rescue service to the Property is no longer provided by an incorporated volunteer company" be changed to "fire and rescue services to the Property are no longer provided by incorporated volunteer companies".*

The referenced proffer has been revised as suggested.

*9. In regard to proffer IX., in the first line thereof, I suggest that the phrase "for the Property" be inserted following the phrase "site plan".*

The referenced proffer has been revised as requested.

*10. These proffers need to be signed by all landowners, and be notarized, prior to the public hearing on this application before the Board of Supervisors.*

Comment acknowledged.

*B. In regard to the conditions for SPEX 2006-0035:*

*1. In regard to condition 1., in the third line thereof, I suggest that the phrase "and revised through July 31, 2007" be inserted following the date "September 22, 2006". I also note that the referenced special exception plat does not contain the correct application number, and I suggest that this be corrected.*

Condition 1 and the SPEX plat have been revised as suggested.

*2. In regard to condition 3., I note that it states that the applicant shall provide a secondary access point as shown on the Concept Plan for ZMAP 2005-0024, Belmont Overlook. However, Sheet 3, which is the only proffered sheet for Belmont Overlook, does not show such connection. This was illustrated on Sheet 4, which is no longer being proffered. This inconsistency needs to be eliminated.*

Sheet 3 has been revised to show the secondary access for the tower.

*3. In regard to condition 4., I note that there is a reference to the "existing service driveway" in this condition, but no mention made of the "proposed" gate, or the "proposed" 40' private access easement shown on the plat. I question whether these need to be addressed. I also question whether a public access easement for emergency vehicles is needed over the private street.*

Condition 4 has been revised to reference the proposed gate and private access easement. An emergency access easement can be provided if desired by the County.

**Community Planning, Department of Planning (comments dated 11/8/07)**

**A. Land Use**

*1. Residential. Staff finds the proposed residential use of the subject property is consistent with the density and land use called for by the Revised General Plan.*

Comment acknowledged.

*2. Civic Uses and Community Facilities. Staff recommends that a percentage of the project area be provided with community/civic space which is usable throughout the year and that is located in a prominent site within the development per Plan policy. An appropriate civic use for the project might be a community center or clubhouse in association with recreation uses as previously proposed by the applicant.*

The Applicant has determined that a clubhouse is not feasible for such a small infill project and would be a burden on the HOA to maintain. However, the Applicant is providing a gazebo in a prominent location near the main entrance, as well as a second gazebo in the southern portion of the Property. If the Application is approved, the Owner intends to convey approximately one acre of its property to the adjacent Mt. Hope Baptist Church. The church building may be available to residents of Belmont Overlook for community meetings and functions.

*3. Public Parks & Open Space. Staff recommends that additional interior open space be provided throughout the proposed neighborhood, such as community greens, pocket parks, tot lots, and/or tree conservation areas. Staff also recommends that enhancements be made to the stormwater management facilities so that will be an amenity for the community and so that they can be counted towards the required open space. Staff suggests the applicant use the following categories as specified in the Plan to identify and provide calculations for the proposed open space: Perimeter Buffers, Natural Open Space (i.e. floodplain, riparian buffers etc.), Passive Open Space (i.e. community greens, picnic area and trails) and Active Open Space (i.e. tot lots, play grounds, and athletic fields).*

A depiction of the location and areas of the various open space categories suggested by staff has been provided on Sheet 4. The open space areas shown on Sheet 4 do not include all the streetscape areas and other small common open space areas that are defined as open space by the Zoning Ordinance. Even excluding such areas, the open space area categories suggested by staff make up almost 40% of the Property.

**B. Existing Conditions**

*1. Forests, Trees and Vegetation. Staff recommends that a more detailed delineation and description of the existing tree cover in the site's interior be submitted to the County so that staff*

*can fully assess opportunities for tree preservation. Staff further recommends that the application commit to preserving the existing trees on the interior of the site by identifying individual trees saves and Tree Conservation Areas (TCAs) on the CDP. The preservation of the trees on the interior of the site will contribute to the quality, aesthetics and attractiveness of the community.*

The initial submission of the Application included two detailed Tree Stand Evaluations dated December 22, 2004, prepared by Wetland Studies and Solutions. The Applicant relied on these studies during the preparation of the development plan proposed by the Application. The CDP depicts several Tree Conservation Areas, including interior site locations, that are proffered to be preserved.

*Staff recommends that the applicant provide additional buffering and green space where possible beyond the 300-foot no-build buffer surrounding Beaverdam Reservoir and that best management practices be utilized onsite to mitigate any potential issues with water quality protection and run-off.*

The opportunity to provide additional green space beyond the 300-foot no-build buffer will be explored at the time the site plan is prepared.

*2. Wetlands and Surface Water. Staff recommends that Alford Road be relocated to provide a 50-foot buffer around the wetland area and that a 50-foot buffer be provided around the picnic site, wet/dry ponds, and residential lots located south of Alford Road.*

The Applicant has agreed to realign Alford Road at the request of VDOT and OTS. The Applicant will limit development around all wetlands and BMP pond as may be required by the FSM.

#### *C. Capital Facilities*

*Staff recommends that the proposed capital facilities impacts be mitigated.*

The Applicant has proffered the recommended capital facilities contribution. Please see Proffer VI.A.

#### *D. Open Space Preservation Program*

*Staff recommends contributions to the Open Space preservation program at an amount reasonable to purchase open space in the Dulles Community.*

The Applicant has proffered an appropriate open space contribution. Please see Proffer VI.B.

*Staff recommends the applicant provide a commitment that addresses the full spectrum of unmet housing needs up to 100% of the AMI. (comment of 12/19/07).*

The Applicant has added a commitment to provide a contribution for unmet housing needs, as requested. Please see Proffer X.

**Virginia Department of Transportation (comments dated 11/9/07)**

*1. Our previous Comment 1 has not been satisfactorily addressed. All improvements should be shown on the plan.*

The Applicant is preparing the two-lane improvement design discussed with OTS and VDOT on February 6<sup>th</sup> and will continue to meet with OTS and VDOT to discuss the proposed design. The draft proffer statement has been revised to provide either the two-lane improvement or the \$2.5 million contribution. Please see Proffer V.A. and V. C. All public road improvements will be constructed to VDOT standards.

*2. The applicant should also dedicate additional right-of-way to accommodate future shared-use path (trail) in accordance with Loudoun County Bicycle & Pedestrian Mobility Master Plan.*

The Applicant has proffered a 10-foot wide asphalt trail along the Property's Belmont Ridge Road frontage. Please see Proffer III.

*3. The applicant should be aware that the road layout/improvements shown on this application is purely conceptual since adequate design information (curve data, typical section, etc) has not been provided on the rezoning plat. For the facility to be eligible for acceptance in the state's secondary road maintenance program (whether new or improvements to existing conditions) the design shall conform to all applicable standards regardless of any previously approved proffered conditions. It is therefore the applicant's responsibility to ensure that all work is designed in accordance with the applicable road classification, as outlined in VDOT Road Design Manual (and other applicable design standard manuals), including design speed, lane widths, lane configuration (number of lanes), road curvature, vertical alignment, length of turning lanes, transitions, sight distance, etc. If the construction plan submitted in future is found in non-conformance with the requirements stated above then we reserve the right at that time to recommend revision, which may be substantial in some cases and may cause major delay in plan approval.*

Comment acknowledged.

**Parks, Recreation and Community Services (comments dated 11/14/07)**

*1. This project adds 145 single-family attached residential units to the Dulles District, and offers no contribution to public recreation. The Applicant should demonstrate to Staff, the Planning Commission, and the Board of Supervisors how the recreational and leisure needs of these new residents will be met without further taxing the existing public recreational facilities in eastern Loudoun. Applicant Response: The Applicant has proffered onsite playgrounds and sports courts, as well as picnic sites and gazebos, for the residents of the planned community. Please see Proffer III. Issue Status: PRCS appreciates the Applicant's contribution to the immediate community recreation needs of the future residents of this application. However, Staff still notes that these onsite amenities will not completely satisfy the recreational needs of the future*

residents of this project. The proposed onsite amenities will not completely mitigate the potential impact on existing public recreational facilities.

In addition to the onsite recreational amenities, the Applicant has also proffered a capital facilities contribution that can be used by the County to enhance public recreational facilities.

2. In conjunction with Comment 1, the Property is in close proximity to Edgar Tillet Memorial Park, a future park in the Brambleton community, and the future Broadlands Recreation Center. PRCS suggests that the Applicant provide a cash contribution earmarked toward the further development of these PRCS public recreational facilities. Applicant Response: As noted above, the Applicant has proffered onsite recreational amenities that address the zoning ordinance recreation space requirements and that will serve to offset the reliance of the future residents on public facilities. In addition, the Applicant has proffered a capital facilities contribution in accordance with County policies to mitigate the anticipated public impacts of the proposed community. Issue Status: In conjunction with Staff's response to Comment 1, the proposed onsite amenities will not satisfactorily offset the reliance of the future residents on public facilities. Future residents will require usage of public athletic fields, recreational and community centers, hiking trails, etc. Therefore, PRCS recommends that the Applicant proffer to further develop existing public recreational facilities within a 1-mile radius of the project area. These improvements could include, but would not be limited to, the construction of a concession/restroom facility at Edgar Tillet Memorial Park, two concession/restroom facilities at the future Brambleton ballfield complex, outfield fencing on the baseball/softball fields at Brambleton, and ballfield lighting at Brambleton.

As noted above, the Applicant's capital facilities contribution may be used by the County for such improvements.

3. The Revised Countywide Transportation Plan (CTP) identifies Belmont Ridge Road (Rt. 659) as a priority bicycle route along roadways. The CTP further identifies Belmont Ridge Road (Rt. 659) ultimate design conditions as, a 6 (six) lane/120-foot ROW, and states bicycle accommodations must be considered in design and may require additional right-of-way. In addition, The Loudoun County Bicycle and Pedestrian Mobility Master Plan (BPMMP), Chapter 4(B), Land Development, Land Development Policy 6; "All land development applications shall provide bicycle and pedestrian access through the development in various directions, so as to prevent it from becoming a barrier between other trip origins and destinations in the community." PRCS recommends that the proposed 8' asphalt trail on the CDP be revised to a 10-foot wide, paved shared bicycle/pedestrian path along Belmont Ridge Road (Route 659). Applicant Response: The CDP has been revised to provide a 10-foot trail along Belmont Ridge Road (Route 659). Issue Status: Resolved.

Comment acknowledged.

4. The Concept Development Plan proposes several "Playground / Sports Courts / Picnic Sites" around the Property. PRCS requests clarification and additional detailed information on the proposed uses and amenities within these recreational areas. Applicant Response: Details on the required active recreation amenities will be provided at the time of site plan. Issue Status:

*As part of the planning for the overall recreational needs for the citizens of the County, PRCS tracks all of the existing and planned public and private recreational amenities within the County. PRCS notes that most rezoning applications list specific uses and/or equipment to be proffered. Staff would appreciate more information about the specific uses and amenities within the recreational areas. Which types of play apparatuses will be included in the playgrounds? Will the picnic areas include pavilions? These need to be included in the proffers.*

The details of the private recreational amenities will be known at the time of site plan review and such information will be available to PRCS.

*5. It appears that the Concept Plan shows potential impacts to wetlands. The applicant should demonstrate to Staff, the Planning Commission, and the Board of Supervisors how the potential impact to wetlands will be mitigated. Applicant Response: Wetland mitigation will be addressed through the COE permitting process. Issue Status: Resolved.*

Comment acknowledged.

*6. It appears that the Applicant is proposing to place the remaining portions of wetlands within open space. Staff recommends that the open space have a Resource Management Plan that addresses the use, maintenance, target vegetation, wildlife management goals and methods, and other aspects of sustaining a functional and attractive natural, open space area. The management plan should also address how watershed protection is to be applied to ensure a healthy stream, diverse aquatic life, stable stream banks, and vibrant native vegetation. In addition, the management plan may also include opportunities and requirements for stream restoration. Applicant Response: Wetland mitigation will be addressed through the COE permitting process. Issue Status: Response noted. However, Staff notes that wetland mitigation through the COE process is different than providing a separate resource management plan for the use of the future HOA.*

Compliance with the approved wetland permits, and with the approved proffers and the approved CDP regarding all common open space areas, will be the responsibility of the HOA.

*7. PRCS strongly supports any efforts to protect and preserve wetlands, trees, and native vegetation because these contribute directly to protecting the health of surface water, groundwater, air quality, and aesthetics – all of which contribute to the health of the community's residents. Staff recommends that any substantial "tree save" area has a Forest Management Plan that addresses the use, maintenance, target vegetation, wildlife management goals and methods, and other aspects of sustaining a functional and attractive natural area. The management plan should address how multiple layers – overstory, understory, shrub and herbaceous layers – will be maintained to ensure the health and functionality of the vegetated open space. Applicant Response: The Applicant's commitment to tree conservation is provided in Proffer VII.A. Issue Status: Resolved.*

Comment acknowledged.

**Proffer Referral Team (comments dated 11/15/07)**

***[Proffer I] Please revise the proffer statement to provide that the development of the property will be in substantial conformity with the Concept Development Plan (CDP), identified as Sheets 3, 4 and 6 of the Rezoning Plan Set.***

The illustrative exhibits on Sheets 4 and 6 are provided to allow staff the opportunity to comment on any potential zoning regulation and development standard compliance issues with the intended project.

***[Proffer I - ADU's] County policy dictates that the Applicant provide 12.5% of all proposed single family detached and single family attached units, and 6.25% of all multi-family units, as Affordable Dwelling Units (ADU's) within the rezoning. With 149 single family attached housing units proposed, the Applicant must provide 19 Affordable Dwelling Units (ADU's). The locations of the ADU units need to be dispersed throughout the market rate units on the property, and their location needs to be displayed on the record plat.***

Comment acknowledged.

***[Proffer V] Please revise the proffer statement to provide that all Transit Capital Cost Contributions and Regional Transportation Improvement Contributions will be used for transit-related capital projects or regional road improvements in the Ashburn or Dulles Planning Subareas.***

Please explain the relevance and purpose of the referenced planning subareas. It is the Applicant's intent that these contributions be used for transportation and transit projects in the Ashburn Community, as described in the Revised General Plan, in which the Property is located.

***[Proffer V.A] Please revise the proffer statement to provide the dedication of all right-of-way along Route 659 in conjunction with the approval of the first residential site plan or record plat for the property, or upon request of the County. The County requires the ability to obtain the right-of-way upon request for the widening of Route 659 in advance of development on the property if necessary.***

Proffer V.A. has been revised to address this comment.

***[Proffer VI] Please revise the proffer statement to provide a per unit capital facility contribution of \$13,666 per unit, not the stated per unit contribution of \$13,352. This per unit capital facility contribution is the contribution required after credits have been granted for all units allowed under current base density and for all proposed ADU units provided within the development. The remaining required capital facility contribution amount was divided by the 149 proposed housing units to obtain the required per unit contribution amount of \$13,666.***

Proffer VI has been revised as suggested.

**[Proffer VI]** *The rezoning is split between the Ashburn and Dulles Planning Subareas. 129 housing units are located in the Ashburn Planning Subarea, 20 units are located in the Dulles Planning Subarea. Please revise the proffer statement to provide that the capital facility contributions will be used by the County for the development of capital facilities in the Ashburn or Dulles Planning Subareas.*

Please explain the relevance and purpose of the referenced planning subareas. It is our understanding that the capital facilities contribution may be used throughout the County at the discretion of the Board.

**[Cash Contribution Adjustments]** *Please revise the proffer statement to provide that all cash contributions provided in this proffer statement shall be adjusted annually by the greater of either: 1.) the Construction Cost Index (CCI) as reported by Engineering News Record, for this region, or 2.) the Consumer Price Index (CPI-U) All Urban Consumers, Washington-DC-MD-VA-WV, reapplied accordingly to determine current cash contribution values.*

The proffer statement is consistent with the RGP proffer policies (page 3-5) which state that cash proffers will be adjusted annually based on the Consumer Price Index (CPI).

**[Road Construction]** *Please revise the proffer statement to provide for the construction of all on-site public and private roads and trails as depicted on the CDP. Please state that the Applicant will dedicate all right-of-way, bond for construction and construct all of the depicted roads, and any off-site road segments the Applicant proposes to provide, with required turn lanes and adequate transitions. Fulfillment of the proffers will be contingent upon the construction of all proffered roads and trails as depicted on the CDP.*

The CDP is conceptual in nature and is not an engineered plan. All public and private streets will be constructed to County and/or VDOT standards.

**[Group Homes]** *Staff requests that the Applicant construct and convey to Loudoun County a single family detached handicapped accessible house with fire suppression with at least four bedrooms and an office. Applicant's proffered house site will be evaluated for suitability by MHMRSAS against Loudoun County land acquisition parameters and by Department of General Services against County site design parameters. The lot dedicated shall have a minimum lot size of six thousand five hundred (6,500) square feet and a minimum street frontage of sixty-five (65) feet. This lot and group home are included within the total number of dwelling units allowed on the Property.*

The Applicant respectfully declines the request made of this small infill project. The Applicant's capital facilities contribution may be used by the County to fund such facilities.

**Zoning Administration, Department of Building and Development (comments dated 11/16/07)**

**1. Original comment: ... provide a breakdown of the unit types per market rate and ADU's. Provide a typical to ensure that it meets the SFA definition. Comment remains outstanding. No breakdown or typical was provided.**

All proposed units are single-family attached and subject to the same 12.5% ADU requirement. The CDP depicts the general areas where townhouse SFAs and duplex/quadrplex SFAs may be constructed. The final unit count and mix will be dependent on final site engineering. As proposed, the Property will have a maximum of 149 SFA units, including 19 required ADUs.

**2. Original comment: The applicant states on sheet 4 that a total of 53,000 sf of active recreation space is provided; however, staff is unclear how this amount is calculated when the active recreation parks total 25,500 sf plus the pool of roughly 8,000 sf. Provide a calculation of how the total was derived to demonstrate that the minimum is being met. Information about the square footage of active recreation and open space is no longer provided. The applicant must demonstrate that they can meet the required amount of active recreation space for the number of units requested, plus the required minimum active recreation space is increased by the increased number of units resulting from the duplex and quadrplex units, per paragraph 2. If the applicant wishes to proffer the number of units it may develop, they must state the minimum amount of open space that they will provide and its locations to ensure it meets the Ordinance requirements. The applicant responds that compliance will be demonstrated at site plan. Section 6-1505(A) requires that the CDP provide information in sufficient detail to judge its superiority to other forms of development. This proposal does not provide sufficient detail and does not demonstrate that it can meet minimal requirements for the number of units proposed.**

The calculation of active recreation space, based on a total of 130 market rate units, is provided on Sheet 3 and shows a minimum requirement of 29,000 square feet. The Applicant has proffered sports courts and playgrounds as active recreation amenities. The open space tabulation provided on Sheet 4 demonstrates that the anticipated active recreation areas are in excess of 34,000 square feet (0.8 acres). The superiority of this PD-H request over the existing R-1 zoning district is evidenced, in part, by the minimum 30% common open space that is required by the PD-H zoning regulations.

**3. Original comment: Height limitations are based on an imaginary plane leaning inward from the PD-H district boundary at an angle representing an increase in height of 1' per 2' of horizontal distance perpendicular to the district boundary, along the external boundary of the proposal. No building shall project through the imaginary plane. Demonstrate that that no building will project through the imaginary plane (§4-109(E)). Revise to conform to ZOAM 2006-0003.**

The maximum building height has been revised as requested.

**4. Original comment: Streets shall provide safe and convenient access for service and emergency vehicles, including fire fighting equipment. There are several stubbed streets**

***that do not provide safe and convenient access for large vehicles, such as at the end of units 50/51, 38/39, and units 126, 136, and 145. Staff recommends additional emergency access or an alternative street pattern (§4-110(C)). A few of the streets have been cul-de-saced but there are others that do not provide safe and convenient access for emergency vehicles. Comment remains outstanding.***

All private streets will be constructed in conformance with County standards.

***5. Original comment: A minimum of 30% of the land within the proposal shall be devoted to open space. Road ROW is excluded from the open space calculation; however, active recreation space and common/dedicated open space may be included. The applicant states that 20 acres of the 39 being rezoned is open space; staff is unclear how this amount is derived. (§4-111(A)). The applicant has revised the plan to provide no information about open space; however, they state in the Statement of Justification that approximately 50% of the property will be maintained as open space. Sufficient information has not been provided to judge the quality of this plan or whether the units proposed can be achieved. If the applicant claims that 50% of the site is maintained open space, a minimum amount of open space can be proffered and its location shown. Comment remains outstanding.***

A depiction of the location and areas of the various open space categories suggested by staff has been provided on Sheet 4. The open space areas shown on Sheet 4 do not include all the streetscape areas and other small common open space areas that are defined as open space by the Zoning Ordinance. Even excluding such areas, the open space area categories suggested by staff make up almost 40% of the Property.

***6. Original comment: Per 5-1101(A), only off-street parking counts toward the fulfillment of required parking; therefore, revise the parking tabulation on sheet 4 to indicate that 435 spaces (garage and driveway) are provided toward the requirement and that an additional 194 on-street parking is provided. The applicant has removed the parking count. Be advised that the number of proposed units may not be achieved if required parking cannot be provided in sufficient amounts.***

The parking requirements, based on a total of 149 SFA units, is provided on Sheet 3. The required number of parking spaces will be provided in garages, in driveways and in off lot parking spaces, in accordance with Section 5-1102.

***7. Front yard is defined as the open space between the front line of a building, and a road or private access easement. Therefore, where units front on private roads or easements along 2 or more sides, those will be treated as a front yards, and other yards treated as sides, and will be subject to Section 5-200, which may limit the location of A/C units, decks, etc.***

Comment acknowledged.

***8. The applicant seeks to modify Section 3-511(A) and 4-110(B) to allow the telecommunications tower, the quadraplex and duplex units to be served by private roads. On sheet 3 state the requirement, as revised by ZOAM 2006-0003, and what is proposed. The applicant states that the***

*request allows for tighter grouping of lots which will maximize "usable common open space" however they have not proffered to a minimum amount of open space, and further, have eliminated recreation space to allow for greater number of units, which appears to be a contradiction of their justification.*

The proposed zoning modifications for the rezoning application have been added to Sheet 3, as requested.

9. *Revise General Note 6 to reflect the correct number of units and the removal of the SPEX.*

General Note 6 reflects the maximum number of SFA units proposed, 149, and references the approved SPEX for the existing telecommunications tower.

10. *Revise General Note 32 to reflect the correct number of ADU's to be provided and that the ADU's will reflect the same ratio of townhouse, duplex and quadraplex units.*

The number of required ADUs will be based on the final number of units approved with the site plans and subdivision plans for the Property. It is the Applicant's intent to intersperse the required ADUs among the townhouse units.

11. *Revise sheet 3 to reflect the correct number of units proposed, the number of ADU's to be provided, the required active recreation space, and the revised density. Revise the yard and setback requirements. Provide a minimum amount of open space that will be provided. The active recreation space has been reduced with the elimination of the pool; demonstrate that sufficient active recreation space can be provided for the maximum number of units. Proffer a minimum square footage of active recreation space that will be provided and proffer its location to ensure it meets Ordinance requirements. Remove the 2 Notes as the definition of substantial conformance allows for minor adjustments based on engineering and the note regarding sidewalks can allow for contradiction to the FSM and Ordinance requirements.*

Sheet 3 has been revised as requested.

12. *Revise sheet 5 to reflect ZOAM 2006-0003.*

Sheet 5 has been revised as requested.

**Proffer Statement:**

13. *Original comment: In the Introductory paragraph, state how many acres of each parcel where only a portion is included in the rezoning. Note that only a portion of parcel 14 and 14B are subject to the rezoning.*

The introductory paragraph has been revised as requested.

14. *Original comment: Remove the second sentence from paragraph I. as the definition of substantial conformance permits minor adjustments as determined by the Zoning*

**Administrator.** *The applicant states that similar language has been approved before, which is not relevant. The Ordinance defines substantial conformance and the zoning administrator determines minor adjustments, proffers cannot override the Ordinance where no modification is permitted. Comment remains outstanding.*

Paragraph I has been revised to reference Section 6-1209(F).

**15. Revise Paragraph I to proffer to conform to sheet 2, 4, and 6.** *Sheet 2 is the rezoning plat and outlines the area subject to the rezoning and boundary line adjustments. Sheet 4 provides insufficient detail to judge the superiority of this proposal over other forms of development and provides residential information required on the CDP per Section 6-1508(B). Sheet 5 provides a pedestrian and traffic circulation plan which is required on the CDP per Section 6-1508(D).*

The area along with the meets and bounds of the rezoning area are all depicted on Sheet 3. The proffered trail along Route 659 is also depicted on Sheet 3. The illustrative exhibits on Sheets 4 and 6 are provided to allow staff the opportunity to comment on any potential zoning regulation and development standard compliance issues with the intended project.

**16. Original comment: In paragraph II, provide a break down of the units based upon type (i.e. duplex, quadruplex, town home villas etc.).** *The applicant states that the CDP identifies the general location of the unit types; however, the only proffered sheet is vague and does not state the maximum number of townhouse, duplex and quadrplexes individually. As this application is being evaluated on the concept of a mixture of units (i.e. Duplex and quads in addition to townhouses), the applicant's language allows too much latitude and would allow for all townhouse units, which is a different application than the one being evaluated. Comment remains outstanding. Additionally, as the duplex and quadrplexes count as more than one unit, therefore, the unit count is incorrect. Finally, the paragraph limits ADU's to the townhouse units, which do not comply with the interspersal requirement in the Ordinance. Affordable units must reflect the unit mix and, therefore, must also be comprised of duplex and quadrplex units.*

The CDP commits to a mix of townhouse, duplex and quadrplex units and a maximum of 149 residential units. The illustrative exhibit on Sheet 4 indicates that approximately 34 of requested SFA units could be developed as duplex and quadrplex units. The development of 149 townhouse units is not possible given the limited areas depicted on the CDP for townhouse units and the zoning ordinance lot and building requirements. The proffer statement and CDP are clear that the rezoning request is for a maximum of 149 SFA units, not buildings, so the unit count is correct. Section 7-104(C) requires that ADUs be interspersed among market rate units, not among each unit type.

**17. Original comment: State when the passive recreational facilities will be constructed and the size of the pool in paragraph III.** *The applicant states that active and passive recreation is shown on the CDP, however, it is not. The recreation spaces need to be accessible to all residents, however, those spaces are not shown. Since the applicant does not provide a timeline as to when the amenities will be provided, only that recreation will be developed when adjacent residential units are developed, the active and passive recreation could be left to the last units.*

*Provide a phasing of active and passive recreation, show where they will be located within the development, and their minimum size. Further, the trails are left to be constructed after more than 2/3<sup>rd</sup> of the project is built out. Trails should be built when the units adjacent to it are developed.*

The active and passive recreational amenities are located on the CDP and described in the proffers. Proffer III has been revised to address the concern regarding a delay in the provision of these amenities until the last units are built. The proffered trail may be impacted by the final design for Route 659, so it makes sense to coordinate the construction of the trail with the ultimate improvements for Route 659.

*18. Paragraph V.C. and D. Revise the first sentence in both paragraphs to read "...for regional transportation improvements with the Ashburn Planning Subarea, as defined in".*

Please explain the relevance and purpose of the referenced planning subarea. It is the Applicant's intent that these contributions be used for transportation and transit projects in the Ashburn Community, as described in the Revised General Plan, in which the Property is located.

*19. Paragraph VI.B. Specify who the recipient of the open space contribution is.*

The referenced proffer has been revised as requested.

*20. Paragraph VII.A.1. Because there is no inventory of the Tree Conservation Area, it is impossible to measure whether 80% of the canopy is being preserved. Therefore, this proffer will be difficult to administer. In addition, any replacement canopy must be at a one for one replacement value, and there needs to be a minimum size for each replacement.*

The approximate area of the proffered Tree Conservation Areas has been added to Sheet 3 to allow for the administration of this commitment. Proffer VII.A.2. does provide a two for one replacement ratio and minimum replacement size. Notwithstanding this tree preservation commitment, the project will be required to demonstrate compliance with the 10-year 20% canopy requirement at the time of site plan review.

*21. Paragraph VII.A.2. Revise the size of replacement trees to 4 inches so that they equal at least 8-inches in caliper or the minimum replacement. Add to the paragraph that a copy of the recorded Tree Conservation Easement will be provided to the Loudoun County Proffer Auditor within 2 weeks of recordation.*

As noted above, the 10-year 20% canopy requirement must be met regardless of the tree preservation commitment. On average and over time, two replacement trees will provide greater canopy coverage than one removed tree. The County receives copies of recorded documents.

*22. Paragraph VII.D.1. Add to the paragraph that the County will receive a copy of the contract provided to purchasers prior to the first settlement.*

Section 6-406 requires the disclosure of all development plans and proffers to home buyers.

*23. Paragraph VIII.B. Add that the County will be given a copy of the options list which evidences that the option is being made available to purchasers. In addition, the builders shall provide evidence that the public water system is NOT capable of delivering adequate service to support a sprinkler system.*

As noted above, Section 6-406 requires the disclosure of all development plans and proffers to home buyers. The capability of the public water system will be determined at the time of site plan review.

*24. Revise Exhibit B, Zoning Modifications to reflect the changes to Section 3-511 with ZOAM 2006-0003.*

Exhibit B has been revised as requested.

**Special Exception:**

*25. Original comment: Section 5-618(B)(3)(c) limits the height of the monopole and antennas to 199-feet. Proposed condition #5 states that no carrier shall be at a height greater than 199' without special exception approval. A prior SPAM indicates that the height of the existing monopole exceeded 200-feet. Provide the existing height of the monopole, and as the height may be modified by SPEX, staff recommends that if the monopole is above 199' that such modification be added to this application. Revise proposed condition #5 to state the current height. Comment remains outstanding. The height was not provided. If the existing height is more than 199 feet, the SPEX must include a modification to height to bring the existing tower into conformance.*

We respectfully point out that the existing structure, as noted in the CMPT 2001-0026, SPEX 2001-0023 and SPEX 2005-0022 approvals, is a tower, not a monopole, and is not subject to Section 5-618(B)(3)(c). The height of the existing tower is 296 feet and this information has been added to both the CDP and the SPEX plat. As the tower height has been a matter of previous County approvals, we do not believe any modification is required. We also point out that condition #5 is not new, but is carried forward from the previous conditions attached to SPEX 2001-0023 and SPEX 2005-0022.

*26. Original comment: Demonstrate that the monopole is setback one foot from the property line per every 5' in height per Section 5-618(B)(3)(e). The applicant responds that the one to five setback is demonstrated on the CDP. However, the CDP (sheet 3) does not show the setback. Sheet 4, not a proffered sheet or a CDP, only states the requirement, but does not give the specific setback required. In addition, the CDP and SPEX plat are separate, therefore, the CDP does not govern the SPEX, and information specific to the SPEX should not be included on the CDP. State the setback on the SPEX plat.*

The relevant setback required by Section 5-618(C)(3)(e) is noted both on the CDP and the SPEX plat, as requested.

**27. Original comment: The proposed SPEX plat indicates that there are 2 equipment shelters; confirm. Also, provide the maximum dimensions of the equipment shelters and height per 5-618(B)(3)(f). If the applicant wishes to have more than 2, show there location otherwise, the applicant may have to receive SPEX approval in the future to add more shelters. Comment remains outstanding as the dimensions were not provided.**

It is our understanding that the existing equipment shelters noted on the SPEX plat are in compliance with the area and height requirements of Section 5-618(C)(3)(f).

**Environmental Review Team, Department of Building and Development (comments dated 11/29/07)**

*Regarding Water Quality and the Beaverdam Reservoir*

1) *Given the proximity of the proposed project to the Beaverdam Reservoir, staff recommends the following measures to minimize the effect of the proposed rezoning on water quality as required by Section 6-1211.E.9 of the Revised 1993 Loudoun County Zoning Ordinance:*

- *Expansion of the 300-foot buffer required by the Loudoun County Facilities Standards Manual (FSM 5.320.H.) to 500 feet. Community Design Policy # 13.b on Page 8-7 of the Revised General Plan recommends that the 300-foot riparian buffer be extended to provide a 1,000-foot voluntary buffer along the Beaverdam Reservoir. Staff notes that approximately half of the recommended 1,000-foot buffer adjacent to the reservoir is currently forested. The County Urban Forester has visited the site and determined that the tree canopy in this area is worthy of preservation. Therefore, staff recommends that the undisturbed buffer be expanded from 300 to 500 feet to facilitate the preservation of the forested riparian buffer adjacent to the Beaverdam Reservoir. Staff further recommends that the preserved buffer be included within the designated Tree Conservation Area. Staff notes that potential modifications to proposed housing types could facilitate preservation of this buffer, while maintaining density.*

As noted above, the Applicant will explore opportunities to provide additional green space beyond the required 300-foot no-build buffer at the time the site plan is prepared. It is noted that portions of the proffered Tree Conservation Areas do extend beyond the 300-foot buffer.

- *Staff recommends that the proposed Best Management Practice (BMP) Wet/Dry Pond located within the recommended 500-foot buffer be removed and replaced with other BMP treatment measures (e.g. manufactured BMPs) to avoid removal of forest cover within the riparian buffer adjacent to the Beaverdam Reservoir. Staff notes that representatives of the Army Corps of Engineers and the Virginia Department of Environmental Quality have indicated that this pond is online with jurisdictional wetlands and will need to be relocated.*

The CDP has been revised to relocate the referenced possible SWM/BMP pond so as to not impact jurisdictional wetlands. The BMP treatment measures will be determined at the time of site plan review.

- *Staff recommends that a 50-foot buffer be preserved surrounding the forested wetland on the South side of Alford Road in the vicinity of Lots 130-140 to minimize the effects of the proposed development on jurisdictional features. Preservation of a forested riparian buffer surrounding this area will ensure preservation of the forested wetland and will provide greater separation to lots to reduce concerns regarding proximity to areas subject to prolonged wetness.*

The Applicant has requested a modification of the 50-foot open space buffer required adjacent to Alford Road to accommodate a larger setback from the referenced jurisdictional features, as shown on the CDP.

- *Staff recommends that Proffer VII.B (Stormwater Management) be revised to include a commitment ensuring that all proposed Stormwater Management/Best Management Practice ponds will be constructed as enhanced extended detention facilities or wet ponds, consistent with the recommendations of the Loudoun County Sanitation Authority's Goose Creek Source Water Protection Program document, "Source Water Protection Tools," published in December 2003, as follows:*

*"The Applicant agrees to construct all Stormwater Management ponds as enhanced extended detention ponds or wet ponds. In addition, the Applicant shall implement low impact development (LID) measures at the Property. The Applicant shall work with the County to implement those LID measures deemed likely to be effective on the Property, based on constraints of the Property. Applicable LID measures will be designed and implemented in accordance with the adopted provisions of the Facilities Standards Manual (FSM)."*

The Applicant cannot commit to the provision of extended detention ponds or wet ponds at this time. Proffer VII.B. does include a commitment to low-impact design measures that will, of course, be designed and implemented in accordance with the FSM.

#### *Regarding Forest Resources*

- 2) *Staff recommends that Proffer VII.A. Tree Conservation Areas be amended consistent with other recently approved rezoning applications (e.g., ZMAP-2005-0013 Marbury, approved September 5, 2006) based on the language approved by the County Urban Forester as follows:*
  - *Add a sentence that reads "Boundaries of all Tree Conservation Areas shall be delineated on the record plat recorded for each section of the development" at the end of A.1.*

Proffer VII.A.2. provides for the recordation of Tree Conservation Easements, which will encompass the Tree Conservation Areas. The current proffer language is consistent with other proffers accepted by the County in 2007.

- *Amend the second sentence under A.2 to read "Tree protection fencing and super silt fence shall be . . ." consistent with the Erosion and Sediment Control Ordinance.*

The referenced proffer has been revised as suggested.

- *Amend "8-inch caliper" in the third sentence under A.2 to read "6-inch caliper."*

The 8-inch caliper standard is consistent with other proffers recently accepted by the County.

- *Amend the sixth sentence under A.2 to reference "first construction plans and profiles or site plan application" as opposed to "first preliminary subdivision plan or site plan application," consistent with FSM 7.302.*

The referenced proffer has been revised as suggested.

- *Please begin a new section A.3 starting with the seventh sentence under A.2 ("The Tree Conservation Area shall be protected . . .), as follows:*

*"Tree Conservation Easements shall be granted to the County for those areas identified as Tree Conservation Areas. The HOA documents shall include a provision that prohibits removal of trees in Tree Conservation Areas as shown on the record plat after construction has been completed by the Owner without specific permission of the County Forester except as necessary to accommodate Forest Management Techniques, performed by or recommended by a professional forester or certified arborist, that are necessary to protect or enhance the viability of the canopy. Such Management Techniques may include, without limitation, pruning and the removal of vines, invasive species, trees uprooted or damaged by extreme weather conditions, and trees or limbs that are diseased, insect-infested, dead, or are considered a hazard to life or property. The HOA documents shall clearly state that such provisions prohibiting tree removal shall not be amended by the Owner or the HOA without written approval from the County. The record plat for each portion of the Property containing a Tree Conservation Area shall contain a note stating that the removal of trees within a Tree Conservation Area is prohibited except in accordance with the Declaration of Covenants."*

The referenced proffer has been revised to incorporate the forest management techniques concept.

#### *Regarding Noise Impacts*

- 3) *Staff acknowledges the Noise Impact Study proffer provided due to the proximity of the proposed development to Belmont Ridge Road, which is a planned minor arterial, six-lane,*

*median divided roadway. However, as previously stated, Zoning Ordinance noise standards are incorrectly referenced in the proffer. The County's adopted Noise Abatement Criteria are outlined in the Revised Countywide Transportation Plan. In addition, since the application was submitted, a more recent proffer commitment has been considered in several recent applications that staff recommends, as follows:*

*"The applicant will provide a noise impact study to the County that will determine the need for any additional buffering and noise attenuation measures along Belmont Ridge Road. The noise impact study shall be based upon traffic volumes for these roadways consistent with the 2030 forecast from the Loudoun County Transportation Forecasting Model or volumes projected at a time 10-20 years from the start of construction available from the Office of Transportation Services based on the latest horizon year, the ultimate road configuration as defined in the Revised Countywide Transportation Plan, and the ultimate design speed. This noise impact study will be conducted by a certified professional engineer and submitted to the County concurrently with the first site plan or construction plan, whichever is first in time. Noise impacts occur if noise levels substantially exceed the existing noise levels (a 10 decibel increase over existing levels) or approach (one decibel less than), meet, or exceed the Noise Abatement Criteria identified in the Revised Countywide Transportation Plan. For all impacted uses, noise attenuation measures shall be provided along the specified roadways sufficient to mitigate the anticipated noise impacts prior to the issuance of occupancy permits for any impacted structures. Noise attenuation shall result in noise levels less than impact levels (2 decibels less than the Noise Abatement Criteria) and shall result in a noise reduction of at least 5 decibels. Where noise attenuation measures are needed, priority shall be given to passive measures (to include adequate setbacks, earthen berms, wooden fences, and vegetation). Structural noise attenuation measures (e.g., noise walls) shall only be used in cases where the mitigation cannot otherwise be achieved.*

The Applicant's Noise Impact Study has been revised to reference compliance with the RGP and CTP noise levels.

*Regarding the plat*

- 4) *Please depict the boundaries of existing vegetation, in addition to the proposed vegetation boundaries, and darken the boundaries of jurisdictional waters and wetlands on the Illustrative Plan (Sheet 4).*

The boundaries of the existing vegetation are depicted on Sheet 4.

**Office of Transportation Services (comments dated 2/11/08)**

**Comment 1:** *Route 659 is planned as a 6-lanes, 120 feet of right-of-way, median divided road at the site's frontage. Additionally, the applicant should construct a half section, 2-lanes of a 4-lane divided road within the ultimate alignment along the site frontage and provide all the necessary construction related easement including grading utility and drainage easement.*

**Applicant Response:** As noted below, the applicant will proffer a cash-in-lieu contribution for this Improvement and will construct the necessary frontage improvements and turn lanes to access the property from the existing 2 lane section of Route 659. **Issue Status:** Using the most recent VDOT cost estimates for constructing a half section of a 4-lane median divided road, OTS estimates that the cost of a half section along the applicant's Route 659 frontage would be approximately \$2.5 million in 2006 dollars. The applicant's suggested contribution is \$5,000 per unit for a total of \$725,000. Plus the funds would not result in any new pavement on Route 659 for a long time. Obviously, this issue needs much more consideration. There may be opportunities for coordination with Brambleton to the south or the Route 659 Road Club to the north. Issue not resolved. **Applicant 2<sup>nd</sup> Response:** The property is burdened with a lengthy Route 659 frontage, approximately 3,000 feet, and a limited development area, which results in an unreasonably high per unit cost for the suggested regional road improvement. The applicant has increased its regional road contribution to 6,900 for a total contribution of \$1,028,100 based on the current yield of 149 units. Please see Proffer V.C. The applicant is willing to discuss road construction options with staff in lieu of a cash contribution provided that staff will support a credit of the full value of such road improvements against the application's anticipated capital facilities contribution. **Final Issue Status:** OTS met with the applicant on February 6, 2007 to resolve the remaining issues that have not been resolved. The outstanding issue is the improvements to Route 659. The applicant offered to contribute 2.5 million dollars which is a cost estimate to construct a half section along the frontage of the site. Using the 2.5 million dollars toward improvement of the existing two lanes along the site was discussed. The applicant agreed to prepare designs based on this approach. OTS will review these plans once the applicant submitted them to the County.

The Applicant is preparing the two-lane improvement design discussed with OTS and VDOT on February 6<sup>th</sup> and will continue to meet with OTS and VDOT to discuss the proposed design. The draft proffer statement has been revised to provide either the two-lane improvement or the \$2.5 million contribution.

**Comment 2:** As an alternate the applicant can make a cash-in-lieu of contribution as noted in Comment 3 below. Currently the applicant should dedicate 60 feet from the center line to the property line, the applicant may be required to dedicate additional ROW for turning lanes and the trails. Since there are no construction plans at this time, the applicant should reserve another 30 feet of right-of-way from the existing center line of Route 659 for future expansion if necessary. The future dedication of the reservation would be at the request of the Board of Supervisors. Experience with expanding existing 2-lane roads to a 6-lane divided sections has shown it is unlikely the improvement will be symmetrical to existing centerlines. If the dedication of the reservation proves to be necessary, the request will be made once this information is available. **Applicant Response:** The applicant will proffer to dedicate 60 feet from centerline and additional right-of-way as may be needed for turn lanes. The applicant will also proffer to prevent the construction of buildings and improvements, other than landscaping, within 30 feet of this dedication to facilitate the provision of additional right-of-way that may be needed for the widening of Route 659. **Issue Status:** The applicant should coordinate with Brambleton to the south and the Route 659 Road Club to determine where the half section of Route 659 should be located. **Applicant 2<sup>nd</sup> Response:** The applicant has met with a representative of the Route

659 Road Club and learned that the road improvements contemplated by that group are much further to the north of the property and would not immediately benefit the property.

**Final Issue Status: Please see Final Issue Status for Comment 1.**

As noted above, the Applicant is preparing the two-lane improvement design discussed with OTS and VDOT on February 6<sup>th</sup> and will continue to meet with OTS and VDOT to discuss the proposed design. The draft proffer statement has been revised to provide either the two-lane improvement or the \$2.5 million contribution.

**Comment 3:** If the frontage improvement is not constructed, the applicant should pay cash-in-lieu of construction prior to approval of the first record subdivision or first site plan, whichever is first in time, the applicant shall provide a contribution for frontage improvements and a half section of the interim planned four lane divided road section within an ultimate 120 foot right-of-way along the property's Belmont Ridge Road frontage as shown on the CDP. Such cash contribution shall be provided to the County or, at the direction of the County, to another entity construction such improvements. For the purpose of determining the in-lieu-of contribution, construction should include all engineering, surveying, bonding, permit fees, utility relocation and other hard costs of construction based upon County bonding estimates pursuant to the FSM. **Applicant Response:** The applicant will construct turn lanes to provide safe access to the property. The applicant will proffer a regional road contribution of \$5,000 per unit in lieu of the construction of a 2-lane half section of the planned 4-lane divided section for Route 659. **Issue Status:** Using the most recent VDOT cost estimates for constructing a half section of a 4-lane median divided road, OTS estimates that the cost of a half section along the applicant's Route 659 frontage would be approximately \$2.5 million in 2006 dollars. The applicant's suggested contribution is \$5,000 per unit for a total of \$725,000. Plus the funds would not result in any new pavement on Route 659 for a long time. Obviously, this issue needs much more consideration. There may be opportunities for coordination with Brambleton to the south or the Route 659 Road Club to the north. Issue not resolved. **Applicant 2<sup>nd</sup> Response:** As noted above, the applicant is willing to discuss road construction options with staff in lieu of a cash contribution provided that staff will support a credit of the full value of such road improvements against the application's anticipated capital facilities contribution. **Final Issue Status: Please see Final Issue Status for Comment 1.**

As noted above, the Applicant is preparing the two-lane improvement design discussed with OTS and VDOT on February 6<sup>th</sup> and will continue to meet with OTS and VDOT to discuss the proposed design. The draft proffer statement has been revised to provide either the two-lane improvement or the \$2.5 million contribution.

**Comment 4:** The Countywide Transportation Plan (CTP) which was adopted July 23, 2001 requires the left and right turn lane at all at-grade intersections along Belmont Ridge Road. Therefore, the applicant should provide left and right turn lanes on Route 659 at the main access of the site and at the intersection of Route 659/ Alford Road if they proceed to construction prior to the planned 4-lane improvement. **Applicant Response:** The applicant has proffered turn lanes on Route 659 at the site entrance and at Alford Road as recommended. **Issue Status: Resolved**

Comment acknowledged.

**Comment 5:** The applicant proposes to develop 149 residential dwellings units. Until the frontage improvements are constructed or cash contributed in lieu of construction is paid to the County, the applicant should only construct the allowed by right number of units. **Applicant Response:** The applicant will proffer a cash-in-lieu contribution to the County for a 2-lane half section of the planned 4-lane divided section for Route 659. **Issue Status:** Please see the issue status for comment 1. **Applicant 2<sup>nd</sup> Response:** In addition to cash contributions for regional road improvements and traffic signals, the applicant has proffered to construct turn lanes for the property's main entrance on Route 659 and to realign existing Alford Road. The proffered road improvements will be constructed prior to the occupancy of the units that will be served by the improvements. **Final Issue Status:** Please see Final Issue Status for Comment 1.

As noted above, the Applicant is preparing the two-lane improvement design discussed with OTS and VDOT on February 6<sup>th</sup> and will continue to meet with OTS and VDOT to discuss the proposed design. The draft proffer statement has been revised to provide either the two-lane improvement or the \$2.5 million contribution.

**Comment 6:** The applicant should provide traffic signals at the following intersections:

- Route 659/ Site entrance
- Route 659/ Alford Road

**Applicant Response:** The applicant will proffer to provide a contribution toward a signal at the intersection of Alford Road and Belmont Ridge Road. With signals on Route 659 at Alford Road and Truro Parish Road, a traffic signal may not be warranted at the site entrance. **Issue Status:** As currently shown on the rezoning plat, the warrants for the intersection of Route 659/ Alford Road will not meet the warrants. However, the applicant may need to provide another entrance on Alford Road since the majority of the residential units are located on the north section of Alford Road. **Applicant 2<sup>nd</sup> Response:** The draft proffers have been revised to allow the signal contribution to be used for either the site entrance or the Alford Road intersection or for another nearby intersection on Route 659, as determined by the County. A connection to Alford Road for the northern portion of the property is not practical due to environmental and other property constraints. **Final Issue Status:** Not resolved

We are unclear as to why this matter is not resolved. OTS has acknowledged that a signal at the Alford Road/Route 659 intersection will not be warranted. The draft proffer statement provides a contribution for a traffic signal on Route 659 in a location determined by the County.

**Comment 7:** According to CTP Policy Number 11 page 2-12, Route 659 is considered one of the roads that has priority for a bicycle and pedestrian facility. VDOT is willing to maintain the trails/sidewalks if it is in the right-of-way. The applicant should construct a 10 foot trail on Route 659 at the frontage of the site. **Applicant Response:** The pedestrian circulation plan on Sheet 5 shows an 8' trail along the property's frontage. **Issue Status:** The applicant should

*provide a cost estimate for constructing 8' trail along the property's frontage based on the most recent VDOT cost estimates for urban typical section for bikeway trail at the frontage of the site along Route 659. **Applicant 2<sup>nd</sup> Response:** The draft proffers and the CDP have been revised to provide the recommended 10-foot trail. **Final Issue Status: Resolved***

Comment acknowledged.

**Comment 8:** *This site is relatively close to the Moorefield Station site and it intended to be transit "friendly" and allow for bus service. In order to facilitate transit service for the future residents of this development, a public transportation contribution of \$750 per unit is recommended. Such funds shall be used for construction of regional road improvements, including right-of-way acquisition along Belmont Ridge or transit/ park and ride and ride share program. **Applicant Response:** The applicant will proffer \$750 per unit for transit improvements as recommended. **Issue Status: Resolved***

Comment acknowledged.

**Comment 9:** *The applicant should not assume that the crossover for this site is guaranteed since Route 659 is a controlled access median divided and this crossover/ location must be approved by VDOT. The applicant should make sure that the proposed entrances must meet VDOT standards. **Applicant Response:** The proposed entrance to the property meets VDOT's spacing requirements for crossover locations. **Issue Status: Resolved***

Comment acknowledged.

**Comment 10:** *The applicant should improve Alford Road along the frontage of the subject site including lane widening with shoulders and ditches. Improvements should include the intersection of Route 659/Alford Road to be a perpendicular to Route 659 and to be aligned with the entrance cross the road. A typical section needs to be determined in cooperation with VDOT. **Applicant Response:** Sheet 4 of the revised plan set does include a typical 20' pavement section for Alfred Road within a 50' right-of-way. **Issue Status:** Not Resolved, Alford Road should have an urban typical section, meets VDOT standards and align with the road entrance at the opposite side of Route 659. **Applicant 2<sup>nd</sup> Response:** The CDP has been revised to provide the requested realignment for a two-lane rural typical section. **Final Issue Status: Resolved***

Comment acknowledged.

**Comment 11:** *The applicant should proffer a noise impact study along Route 659 to protect the residential units that have frontage on this road. The study would be conducted at the subdivision. **Applicant Response:** The applicant will proffer a noise impact study as recommended. **Issue Status: Resolved***

Comment acknowledged.

**Comment 12:** *The traffic impact study shows that the Average Daily Traffic (ADT) for the total future plus 10 (2016) peak hour volumes is 11,250 vehicles per day (vpd). Another traffic study shows the ADT for the same segment of Route 659 for the 2007 background traffic volume is 24,050 vpd. Also, the Washington Metropolitan Council of Government (COG) model shows the projected ADT for the 2015 at the vicinity of the site is 36,640. The ADT is expected to be much more than the stated volumes in the traffic study. Applicant Response: The reported ADT was due to a calculation error. The correct ADT is 31,890. Grove/Slade is prepared to provide OTS with an amended traffic study, if required. Issue Status: Resolved*

Comment acknowledged.

**Comment 13:** *The Emergency Access can be eliminated if the applicant provides another entrance on Alford Road. Applicant 2<sup>nd</sup> Response: As noted above, another entrance on Alford Road is not practical due to environmental and other property constraints. Final Issue Status: Resolved (Check with VDOT)*

Comment acknowledged.

We believe this response letter, the revised rezoning plans and the revised draft proffers address the review comments. We look forward to continuing to work with you on this project and having this case scheduled for a Planning Commission public hearing in April. Please do not hesitate to contact me if you have any questions.

Very truly yours,

Cooley Godward Kronish LLP



Jeffrey A. Nein, AICP  
Senior Land Use Planner

Enclosures

cc: Kevin Fleming, K. Hovnanian Homes of Virginia, Inc.  
William E. Fissel, P.E., Dewberry  
Christopher M. Tacinelli, P.E., Grove/Slade Associates  
Antonio J. Calabrese, Esq., Cooley Godward Kronish LLP

346029 v1/RE

JEFFREY A. NEIN, AICP  
(703) 456-8103  
jnein@cooley.com

BY HAND DELIVERY

March 14, 2008

Michael S. Elabarger  
Project Manager  
Department of Planning  
1 Harrison Street, S.E., 3rd Floor  
Leesburg, Virginia 20177-7000

**RE: Belmont Overlook, ZMAP 2005-0024/SPEX 2006-0035  
Response to Review Comments on 2/21/08 Submission**

Dear Mike:

This letter includes our response to the staff review comments we have received regarding the February 21, 2008 application submission. The enclosed revised proffers and plans also respond to the comments and direction we received at our meeting with you and Rory Toth on March 11<sup>th</sup>. In particular, the CDP has been revised to incorporate more detail, which we believe addresses many of the Zoning comments.

Enclosed please find 15 copies each of the revised proffers (clean and comparison versions) and the revised proposed development conditions (clean and comparison versions) for the Special Exception. Fifteen copies of the revised rezoning plans and the special exception plat will be delivered to you under separate cover.

The staff review comments are addressed below in chronological order. Each agency's comments are summarized (noted in *Italics*) and followed by our response.

**Office of Transportation Services (comments dated 2/29/08)**

*The issue for [previous] comments 1, 2, 3 and 5 [regarding improvements to Route 659] are outstanding and they are not resolved. The applicant states that he is preparing the two-lane improvements design which was discussed during the meeting with VDOT. The issue for the traffic signal is not resolved. The contribution for the traffic signal has not been determined yet.*

The Applicant has prepared a Route 659 two-lane improvement design, as discussed with OTS and VDOT on February 6<sup>th</sup>, and will submit the design to OTS and VDOT as soon as possible. The proposed design will address previous comments 1, 2, 3 and 5. With respect to the traffic signal contribution, Proffer V.E. commits a contribution of \$175 per unit (potential total of \$26,075) as a fair share contribution towards a future traffic signal on Route 659. We believe this is consistent with proffers accepted from other small infill projects in the Route 659 corridor.

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**Office of the County Attorney (comments dated 3/3/08)**

**A. In regard to the proffers for ZMAP 2005-0024:**

*1. In regard to proffer I., in the third line thereof, I suggest that the word "Application" be inserted following the word "Amendment" in order to match the language found on the CDP. Additionally, I suggest that Sheets 1, 5, 6, and 7 should all be considered for inclusion in this proffer as they all contain very specific information concerning the development of the Property that is otherwise not shown on Sheet 3, which is the only sheet being proffered.*

The third line of Proffer I has been revised as suggested. Sheet 1 only includes descriptive and background information for the Property to assist in the review of the Application. Sheets 6 and 7 are also illustrative exhibits that show potential locations for pedestrian and vehicular systems and for utilities based on the Sheet 4 illustrative. Sheet 5 includes illustrative typical sections of the intended private and public streets for the project. Detailed construction plans for all such streets will be submitted for the review and approval of the County and/or VDOT. Nevertheless, Sheet 3 has been revised to provide more site development detail in response to staff comments.

*2. In regard to proffer III., concerning the recreational amenities, I note that these amenities are not shown on Sheet 3. Hence, there is no way for the County to know when or where these amenities will be provided, and the timing mechanism, which ties the provision of the amenities to the development of the adjacent residential areas, is largely meaningless. Therefore, I again suggest that Sheet 7 be proffered, as it shows the location of the amenities in relation to the pedestrian and traffic circulation within the Property.*

Proffer III has been revised to clarify that it is the approximate locations of the amenities that are shown on the CDP. Proffer III has also been revised to provide a more definitive time for the construction of the amenities. The revised CDP shows the locations of the amenities and the adjacent travelways.

*3. In further regard to proffer 3., and its relation to proffer IV.A., I note that the applicant includes a provision that would require the County to construct a trail along the Route 659 frontage of the Property, but then also provides that the homeowners' association would bear responsibility for the trail if the County builds it. If this trail is to be outside of the VDOT right-of-way and is to be maintained by the HOA, then I suggest that the developer should be responsible for bonding and constructing it.*

The developer will be responsible for constructing the trail if final design plans for the ultimate widening of Route 659 are approved prior to the issuance of the 100<sup>th</sup> residential zoning permit. Proffer III has been revised to give the County the option of requiring the developer to either construct the trail or provide the cash contribution for the trail in the event that final design plans for Route 659 have not been approved at the noted time. Given the uncertainty as to the final alignment of the ultimate Route 659 improvements, the intent is to construct the trail at a time

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when the alignment of the Route 659 improvements is known so as not to impact the trail. It has always been the intent to place the trail in a public access easement and to have the trail maintained by the HOA.

4. *In regard to proffer V.A.1., I suggest that the first sentence be rewritten to state "The Owner shall dedicate, at no cost to the County, the portion of the Property which lies within sixty (60) feet of the "Ultimate C/L Alignment" for Route 659, as shown on the CDP, for the widening of Route 659, by others, to the six lane divided road section recommended by the Countywide Transportation Plan. This dedication shall include additional right of way, as needed, to include turn lanes."*

Proffer V.A.1. has been revised as suggested.

5. *In further regard to proffer V.A.1. , in the eighth line thereof, I suggest that the phrase "of the" be inserted prior to the word "County". Additionally, in the ninth line of the proffer, I suggest that the phrase "the Owner is satisfied that" be deleted.*

Proffer V.A.1. has been revised as suggested.

6. *In regard to proffer V.A.3., it appears that the construction of turn lanes on the existing two lane configuration of Route 659 should only be required if the improvements to Route 659 have not been provided before the development of this Property. Therefore, I recommend that the phrase "Provided that Route 659 has not been widened prior to the approval of the first record plat or site plan, whichever occurs first," be inserted at the beginning of the proffer.*

Proffer V.A.3. has been revised as suggested.

7. *In regard to proffer V.C., concerning the improvement of Route 659, between Alford Road and the terminus of the four lane section of Route 659 to the south, to provide a two lane section of road that conforms with current VDOT standards, I urge staff to consider if this provision is appropriate, as it appears that this could result in the construction of some improvements that will have to be removed when the road is built to its ultimate configuration.*

The Applicant has discussed this matter extensively with OTS and VDOT, and given the existing condition of this portion of Route 659 and the uncertainty as to when the ultimate CTP improvements will be funded, the consensus was that the safety benefits derived today from an improved two lane section outweigh the costs of the potential future removal of the two lane section.

8. *In further regard to proffer V.C., I note that the applicant does provide an alternative to the construction of these improved two lanes. However, I also note that the County must request the alternative "prior to the submission of construction plans" for the improved two lanes. I suggest that some provision be included that would require the Owner to provide timely notice of when they intend to submit the construction plans.*

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A "timely notice" provision has been added to proffer V.C., as suggested.

9. *In regard to proffer V., generally, I note that there is nothing contained in the proffers obligating the applicant to provide the secondary access for the telecommunications facility that is the subject of SPEX 2006-0035. While shown on the CDP, I suggest that a timing mechanism for its provision be included.*

A new proffer, Proffer V.F., has been added to address this suggestion.

10. *In regard to proffer VII.A.2., in the eighth through tenth lines thereof, the applicant proposes that if trees have to be removed from the Tree Conservation Area, then the applicant would be able to choose the specie and location of the replacement trees. I suggest that the trees should be located in the same general area as the trees removed, unless otherwise requested by the County, and that they should be of the same specie as the trees removed.*

The proffer does provide for consultation with the County Urban Forester with respect to replacement tree location and species.

11. *In further regard to proffer VII.A.2., I note that the applicant intends to submit to the County a tree conservation plan for the Tree Conservation Areas. The applicant goes on to refer to the "approved conservation plan". However, it is not clear to me if the intent is for the County to review and approve the tree conservation plan. If that is the intent, then I suggest that it be clearly indicated.*

Proffer VII.A.2. has been revised to clarify that the County will review and approve the tree conservation plan.

12. *In further regard to proffer VII.A.2., in the twenty second line thereof, I suggest that the word "ate" be changed to "are".*

Proffer VII.A.2. has been revised as suggested.

13. *In regard to proffer VII.B., in the first line thereof, I suggest that the phrase "Storm Water Management facilities for the Property shall be located in one or more of the sites shown on the CDP as 'possible SWM/BMP'" be added as a sentence to the start of the proffer. Additionally, I suggest that the phrase "storm water management facilities", as found in the first line of the proffer, be changed to "SWM/BMPs".*

The referenced proffer has been revised as suggested.

14. *In regard to proffer VII.C., in the seventh line thereof, I suggest that the phrase "for the Property" be inserted following the parenthetical "not preliminary subdivision plat".*

The referenced proffer has been revised as suggested.

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15. *In further regard to proffer VII.C., I note that the applicant states the intent to provide "buffers, berms, fencing, or other such noise attenuation measures" along Route 659 if necessary to mitigate noise impacts from Route 659 as shown in the proposed study. However, the CDP already shows a 4 foot earthen berm along Route 659. It is not clear if the intent is to provide more of a berm, or whether the intent is that the berm shown on the CDP is only to occur if shown necessary by the noise impact study. I suggest that this apparent conflict be clarified.*

Proffer VII.C. has been revised to clarify the intent to provide buffers greater than 4 feet in height as one of the potential noise attenuation measures.

16. *In regard to proffer VII.E., the applicant refers to the provision of data concerning "cultural resources". I cannot tell what the applicant intended to mean by this reference and I suggest that this be clarified.*

Proffer VII.E. has been revised to clarify the provision of digital data for the cultural features identified in the submitted archaeological reports.

17. *These proffers need to be signed by all landowners, and be notarized, prior to the public hearing on this application before the Board of Supervisors.*

Comment acknowledged.

B. *In regard to the conditions for SPEX 2006-0035:*

1. *In regard to condition 1., I suggest that it be clarified whether these conditions are intended to fully replace the conditions of SPEX 2005-0022. I also suggest that the requested use be identified in the first sentence of this condition, following the phrase "the proposed use".*

Condition 1 has been revised as suggested. It is the intent that the proposed amended conditions fully replace the conditions of SPEX 2005-0022.

2. *In regard to condition 8., concerning "any building installed in connection with this use", I note that the neither the number nor size of buildings has been specified. I suggest that this be considered.*

Condition 8 has been revised to reference compliance with the structure size and height requirements of Section 5-618(C)(3)(f). The number of structures is dependent on the number of carriers with antennas on the tower.

3. *In regard to condition 9., I suggest that the phrase "surrounding the existing tower compound" be changed to "around the 'Limit of Special Exception Cell Tower Compound'", as that is the terminology used on the special exception plat.*

Condition 9 has been revised as suggested.

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**Zoning Administration, Department of Building and Development (comments dated 3/6/08)**

**1. Section 5-900(A) Building and Parking Setbacks from Roads.** *Staff notes that Route 659 is currently classified as a major collector and is proposed to be a minor arterial. Verify that the 75 foot setback is measured from the ultimate right-of-way for Route 659, as Staff notes that the Applicant is proffering to dedicate 60 feet of right-of-way in Proffer V.A.1 and an additional 30 feet (for a total of 90 feet) in Proffer V.A.2. It appears the setback shown on the CDP is measured from the 60 foot right-of-way dedication. Staff also notes that improvements, such as a berm, trail and landscaping along Route 659 may be impacted if the 30 feet of additional right-of-way is deemed to be necessary in the future.*

The 75 foot setback is measured from the proffered 60 foot right-of-way dedication, which represents half of the ultimate 120 foot right-of-way recommended in the CTP for the future minor arterial condition for Route 659. The offer of an additional 30 feet of right-of-way derives from earlier discussions with OTS regarding the yet unknown final alignment of the ultimate 120 foot right of way. The Applicant has agreed to provide additional right-of-way (up to 30 feet) at no cost to the County if needed for the final design of the ultimate Route 659 improvements. The 60 foot dedication will occur with the development of the Property (see Proffer V.A.1.) and conforms with the CTP recommendations for Route 659.

**2. Original comment:** *... provide a breakdown of the unit types per market rate and ADU's. Provide a typical to ensure that it meets the SFA definition. Comment remains outstanding. No breakdown or typical was provided.*

The CDP has been revised to provide a breakdown of unit types, as requested, and includes the Zoning Ordinance definitions for townhouse, duplex and quadraplex units. All proposed units are single-family attached and subject to the same 12.5% ADU requirement. As proposed, the Property will have a maximum of 149 SFA units, including 19 required ADUs. Proffer II commits all required ADUs to be interspersed among the townhouse units.

**3. Original comment:** *Information about the square footage of active recreation and open space is no longer provided. The applicant must demonstrate that they can meet the required amount of active recreation space for the number of units requested, plus the required minimum active recreation space is increased by the increased number of units resulting from the duplex and quadraplex units, per paragraph 2. If the applicant wishes to proffer the number of units it may develop, they must state the minimum amount of open space that they will provide and its locations to ensure it meets the Ordinance requirements. The applicant responds that compliance will be demonstrated at site plan. Section 6-1505(A) requires that the CDP provide information in sufficient detail to judge its superiority to other forms of development. This proposal does not provide sufficient detail and does not demonstrate that it can meet minimal requirements for the number of units proposed. This comment remains outstanding.*

In accordance with our meeting with Staff on March 11<sup>th</sup>, the CDP has been revised to provide more detail. The Applicant has proffered a maximum of 149 single family attached units, including 19 ADUs. Please see Proffer II. The calculation of active recreation space, based on a total of

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130 market rate units, is provided on the CDP and shows a minimum requirement of 29,000 square feet. The Applicant has proffered sports courts and playgrounds/tot lots as active recreation amenities and has depicted the locations of these amenities on the CDP. The superiority of this PD-H request over the existing R-1 zoning district is evidenced, in part, by the proffered 14.1 acres (36%) of common open space, which exceeds the 30% open space required by the PD-H zoning regulations and the minimal R-1 open space requirement.

*4. Original comment: Height limitations are based on an imaginary plane leaning inward from the PD-H district boundary at an angle representing an increase in height of 1' per 2' of horizontal distance perpendicular to the district boundary, along the external boundary of the proposal. No building shall project through the imaginary plane. Demonstrate that that no building will project through the imaginary plane (§4-109(E)). Revise to conform to ZOAM 2006-0003. This comment remains outstanding. The Applicant has provided a diagram on Sheet 5, however, this does not demonstrate compliance with Section 4-109(E). Maximum building heights should be provided to determine if the buildings are in conformance with the Zoning Ordinance.*

The maximum building height of 45 feet is noted on the CDP. The diagram depicted on Sheet 5 represents the 1 to 1 bulk plane that must be maintained along the PDH district boundary. None of the proposed residential units will encroach into the required bulk plane.

*5. Original comment: Streets shall provide safe and convenient access for service and emergency vehicles, including fire fighting equipment. There are several stubbed streets that do not provide safe and convenient access for large vehicles, such as at the end of units 50/51, 38/39, and units 126, 136, and 145. Staff recommends additional emergency access or an alternative street pattern (§4-110(C)). A few of the streets have been cul-de-saced but there are others that do not provide safe and convenient access for emergency vehicles. Comment remains outstanding. Staff notes that this comment has not been addressed as there are still numerous dead-end streets with no cul-de-sacs which do not provide safe and convenient access for large vehicles and emergency/fire protection vehicles.*

The revised CDP includes a note stating that all turnarounds will meet FSM standards.

*6. Original comment: The applicant has revised the plan to provide no information about open space; however, they state in the Statement of Justification that approximately 50% of the property will be maintained as open space. Sufficient information has not been provided to judge the quality of this plan or whether the units proposed can be achieved. If the applicant claims that 50% of the site is maintained open space, a minimum amount of open space can be proffered and its location shown. Comment remains outstanding. The Applicant has not provided a proffered CDP sheet demonstrating how they meet the open space and active recreation space requirements or how the calculations shown on Sheet 4 were derived. Comment remains outstanding. In addition, the active recreation space calculation on Sheet 4 references 0.7 acres, or 30,492 square feet of active recreation space, while sheet 3 references 29,000 square feet of active recreation open space. Please clarify this discrepancy. Staff notes that the Applicant must demonstrate that the application provides the required amount of open and active recreation space on the CDP.*

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The Statement of Justification dated 2/21/08 states that approximately 40% of the Property will be maintained as common open space. The CDP continues to state the minimum requirements for both active recreation space and open space, and continues to state that the minimum requirements will be provided. The CDP has been revised to note that approximately 14.1 acres (39%) will be open space. There is no discrepancy with respect to the active recreation space noted on Sheets 3 and 4. Sheet 3 states the minimum requirement of 29,000 sq.ft. The Open Space Diagram on Sheet 4 was provided in response to comments from Community Planning and provides a rough estimate of the anticipated active recreation space area.

*7. Original comment: The applicant has removed the parking count. Be advised that the number of proposed units may not be achieved if required parking cannot be provided in sufficient amounts. The Applicant has revised the parking count on Sheet 3 to show 149 units x 3 spaces = 447 spaces. However, the Applicant has not demonstrated how the application meets the 0.5 spaces/lot shown off lot required by Table 5-1102 for single family attached dwelling units.*

The Applicant is aware of the requirement to provide 0.5 spaces per lot in an "off lot" parking area. The CDP continues to note the minimum parking requirement and includes a note stating that compliance will be demonstrated with the site plan application.

*8. Original comment: The applicant seeks to modify Section 3-511(A) and 4-110(B) to allow the telecommunications tower, the quadraplex and duplex units to be served by private roads. On sheet 3 state the requirement, as revised by ZOAM 2006-0003, and what is proposed. The applicant states that the request allows for tighter grouping of lots which will maximize "usable common open space" however they have not proffered to a minimum amount of open space, and further, have eliminated recreation space to allow for greater number of units, which appears to be a contradiction of their justification. The Applicant has updated Sheet 3 to reflect the revisions to the Zoning Ordinance with ZOAM 2006-0003. Staff notes that the Applicant still has not shown the required amount of open space and active recreation space or demonstrated on the CDP.*

The CDP continues to state the minimum open space and active recreation space requirements and states that compliance will be demonstrated with the site plan application. The CDP also notes a provided open space area of approximately 14.1 acres, which exceeds the minimum requirement.

*9. Original Comment: Revise General Note 6 to reflect the correct number of units and the removal of the SPEX. General Note #6 still references 149 SFA units and does not provide a breakdown of the different unit types.*

General Note 6 reflects the correct number of SFA units proposed, 149. Sheet 3, the CDP, has been revised to note the distribution of the 149 units between townhouse and duplex/quadraplex units.

*10. Revise General Note 32 to reflect the correct number of ADU's to be provided and that the ADU's will reflect the same ratio of townhouse, duplex and quadraplex units. The Applicant stated in their response that the required number of ADUs will be based on the final number of units approved with the site plans and subdivisions for the property. The Applicant states that ADUs will*

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*be interspersed among the townhouse units. The Applicant must demonstrate on the CDP that the required number of ADUs will be met. Comment remains outstanding.*

General Note 32 is included to acknowledge that this project is subject to the ADU requirements. The CDP continues to state that 19 ADUs are required for the proposed total of 149 SFA units. Proffer II continues to state that the requested number of 149 SFA units includes all required ADUs. As per Section 7-104, the locations of ADUs are to be shown on subdivision and/or site plans.

*11. Original Comment: Revise sheet 3 to reflect the correct number of units proposed, the number of ADU's to be provided, the required active recreation space, and the revised density. Revise the yard and setback requirements. Provide a minimum amount of open space that will be provided. The active recreation space has been reduced with the elimination of the pool; demonstrate that sufficient active recreation space can be provided for the maximum number of units. Proffer a minimum square footage of active recreation space that will be provided and proffer its location to ensure it meets Ordinance requirements. Remove the 2 Notes as the definition of substantial conformance allows for minor adjustments based on engineering and the note regarding sidewalks can allow for contradiction to the FSM and Ordinance requirements. While the Applicant has provided a diagram and calculations on Sheet 4 showing the location of open space and active recreation space, this sheet is not proffered. The location and pedestrian access should be shown on the proffered CDP.*

The proffered CDP continues to state the minimum open space and active recreation space requirements and states that compliance will be demonstrated with the site plan application. The CDP also notes a provided open space area of approximately 14.1 acres, which exceeds the minimum requirement. The CDP has been revised to demonstrate that all active recreation areas are adjacent to travelways, which are proffered to include 5-foot wide sidewalks.

Proffer Statement:

*12. Original comment: Remove the second sentence from paragraph I. as the definition of substantial conformance permits minor adjustments as determined by the Zoning Administrator. The applicant states that similar language has been approved before, which is not relevant. The Ordinance defines substantial conformance and the zoning administrator determines minor adjustments, proffers cannot override the Ordinance where no modification is permitted. Comment remains outstanding.*

Paragraph I was previously revised to reference Section 6-1209(F), the "substance conformance" section of the Zoning Ordinance.

*13. Original Comment: Revise Paragraph I to proffer to conform to sheet 2, 4, and 6. Sheet 2 is the rezoning plat and outlines the area subject to the rezoning and boundary line adjustments. Sheet 4 provides insufficient detail to judge the superiority of this proposal over other forms of development and provides residential information required on the CDP per Section 6-1508(B). Sheet 5 provides a pedestrian and traffic circulation plan which is required on the CDP per Section 6-1508(D). The Applicant has not amended the proffer to include Sheets 2, 4 or 6. Sheet 3 is*

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*essentially a "bubble plan" and does not commit the Applicant to any specific design that meet the Zoning Ordinance requirements.*

The area along with the meets and bounds of the rezoning area are all depicted on Sheet 3, the proffered CDP. The proffered trail along Route 659 and the internal travelways are also depicted on the CDP. The illustrative exhibits on Sheets 4 and 6 are provided to allow staff the opportunity to comment on any potential zoning regulation and development standard compliance issues with the intended project. We respectfully point out that Section 6-1508 does not preclude a CDP from being a "bubble plan" and the County has approved numerous bubble-plan CDPs in the past. The Application was deemed to comply with all submission requirements, including sufficient detail to judge its superiority over other forms of development, when it was accepted for review, and the revised CDP provides the applicable information required by Section 6-1508.

*14. Original comment: In paragraph II, provide a break down of the units based upon type (i.e. duplex, quadruplex, town home villas etc.). The applicant states that the CDP identifies the general location of the unit types; however, the only proffered sheet is vague and does not state the maximum number of townhouse, duplex and quadraplexes individually. As this application is being evaluated on the concept of a mixture of units (i.e. Duplex and quads in addition to townhouses), the applicant's language allows too much latitude and would allow for all townhouse units, which is a different application than the one being evaluated. Comment remains outstanding. Additionally, as the duplex and quadraplexes count as more than one unit, therefore, the unit count is incorrect. Finally, the paragraph limits ADU's to the townhouse units, which do not comply with the interspersion requirement in the Ordinance. Affordable units must reflect the unit mix and, therefore, must also be comprised of duplex and quadraplex units. Comment remains outstanding.*

The CDP commits to a mix of townhouse, duplex and quadraplex units and a maximum of 149 residential units, which includes 2 units per duplex building and 4 units per quadraplex building. The proffer statement and CDP are clear that the rezoning request is for a maximum of 149 SFA units, not buildings, so the unit count is correct. The CDP has been revised to clarify the location and number of the SFA unit types proposed. We respectfully point out that Section 7-104(C) requires that ADUs be interspersed among the market rate units, not necessarily among each type of SFA unit proposed.

*15. Previous comment: The applicant states that active and passive recreation is shown on the CDP, however, it is not. The recreation spaces need to be accessible to all residents, however, those spaces are not shown. Since the applicant does not provide a timeline as to when the amenities will be provided, only that recreation will be developed when adjacent residential units are developed, the active and passive recreation could be left to the last units. Provide a phasing of active and passive recreation, show where they will be located within the development, and their minimum size. Further, the trails are left to be constructed after more than 2/3<sup>rd</sup> of the project is built out. Trails should be built when the units adjacent to it are developed. Comment remains outstanding.*

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The active and passive recreational amenities continue to be shown on the CDP and are described in the proffers. Proffer III was previously revised to address the concern regarding a delay in the provision of these amenities until the last units are built. The trail location may be impacted by the final design for Route 659, so it makes sense to coordinate the construction of the trail with the ultimate improvements for Route 659. We note that there are no proposals to construct the trail to the north or to the south of the Property, which makes the construction of the trail less time sensitive.

*16. Paragraph V.A.2. The proffer states that an additional 30 feet of right-of-way will be dedicated from the edge of the 60 feet of right-of-way referenced in Proffer V.A.1 if additional right-of-way is required to widen Route 659 to a six lane divided roadway, which totals 90 feet of dedicated right-of-way. Clarify that Section 5-900 road and parking setbacks shown on the CDP are measured from the ultimate right-of-way. As it's currently shown, it appears the setbacks are shown from the edge of the 60 foot dedicated right-of-way and not the 90 foot dedicated right-of-way.*

As noted above in response to comment 1, the 75 foot setback required by Section 5-900 is measured from the proffered 60 foot right-of-way dedication, which represents half of the ultimate 120 foot right-of-way recommended in the CTP for the future minor arterial condition for Route 659. The offer of an additional 30 feet of right-of-way derives from earlier discussions with OTS regarding the yet unknown final alignment of the ultimate 120 foot right of way. The Applicant has agreed to provide additional right-of-way (up to 30 feet) at no cost to the County if needed for the final design of the ultimate Route 659 improvements. The 60 foot dedication will occur with the development of the Property (see Proffer V.A.1.), will conform with the CTP recommendations for Route 659, and will establish the new right-of-way line from which all setbacks will be measured.

*17. Previous comment: Paragraph V.C. and D. Revise the first sentence in both paragraphs to read "...for regional transportation improvements with the Ashburn Planning Subarea, as defined in". The County looks at these types of contributions by planning sub-areas. Stating the contributions for regional improvements within the Ashburn Community is vague and hard to enforce. Comment remains outstanding.*

The proposed proffer language has been used in numerous rezoning cases and addresses the OTS request for regional transportation and transit contributions that are separate from the capital facilities contribution. It is the Applicant's intent that these contributions be used for transportation and transit projects in the Ashburn Community, as described in the Revised General Plan, in which the Property is located.

*18. Previous comment: Paragraph VII.A.1. Because there is no inventory of the Tree Conservation Area, it is impossible to measure whether 80% of the canopy is being preserved. Therefore, this proffer cannot be administered. In addition, any replacement canopy must be at a one for one replacement value, and there needs to be a minimum size for each replacement. Comment remains outstanding.*

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The approximate area of the proffered Tree Conservation Areas continues to be noted on the CDP to allow for the administration of this commitment. Proffer VII.A.2. does provide a two for one replacement ratio and minimum replacement size. Notwithstanding this tree preservation commitment, the project will be required to demonstrate compliance with the 10-year 20% canopy requirement at the time of site plan review.

*19. Previous comment: Paragraph VII.A.2. Revise the size of replacement trees to 4 inches so that they equal at least 8-inches in caliper or the minimum replacement. Add to the paragraph that a copy of the recorded Tree Conservation Easement will be provided to the Loudoun County Proffer Auditor within 2 weeks of recordation. Comment remains outstanding.*

As noted above, the 10-year 20% canopy requirement must be met regardless of the tree preservation commitment. On average and over time, two replacement trees will provide greater canopy coverage than one removed tree. Nevertheless, the referenced proffer has been revised to provide for the replacement of trees of 6-inch caliper or greater in the Tree Conservation Areas to address this concern. The County receives copies of recorded documents from the Clerk's office. We respectfully suggest that if additional recorded copies are needed by the County for its administration of the proffers, that the recordation instructions provided to the Applicant address the number of recorded copies to be returned to the County.

*20. Previous comment: Paragraph VII.D.1. Add to the paragraph that the County will receive a copy of the contract provided to purchasers prior to the first settlement. As proffers become part of zoning regulations upon approval of a zoning map amendment application, without documentation that the copy is received at settlement, this proffer is difficult to administer. In accordance with Section 6-1209(G), proffers must be able to be administered and enforceable. Comment remains outstanding.*

Proffer VII D.1. has been revised to make this information a requirement of the HOA documents, which the County reviews and approves. This should make the enforcement of the proffer easier. We note that Section 6-406 requires the disclosure of all development plans and proffers to home buyers.

*21. Previous comment: Paragraph VIII.B. Add that the County will be given a copy of the options list which evidences that the option is being made available to purchasers. In addition, the builders shall provide evidence that the public water system is NOT capable of delivering adequate service to support a sprinkler system. As proffers become part of zoning regulations upon approval of a zoning map amendment application, without documentation that the copy is received at settlement, this proffer is difficult to administer. In accordance with Section 6-1209(G), proffers must be able to be administered and enforceable. Comment remains outstanding.*

The capability of the public water system will be determined at the time of site plan review. Proffer VIII.B. has been revised to provide the options list to the County in the event the public water system is able to support sprinkler systems.

Special Exception:

22. Staff notes that the tower was erected when the subject property was CR-1/A-3 as an amateur radio tower and received a special exception in 2002 to have commercial antennas. When the property was remapped to R-1 in 2003 with the Countywide Remapping, it became a legal non-conforming use. Staff also notes that the previous SPEX antennas did not limit the number of antennas on the tower, but limited how high they could be located on the tower (199 feet). Staff notes that a telecommunications tower is not a permitted use in the PD-H4 zoning district and therefore would remain a legal non-conforming use. However, the Zoning Ordinance does allow telecom antennas by right on existing towers. Clarify how many antennae are currently located on the tower and if any additional antennas are proposed. Staff also recommends that a condition be considered to limit the number of antennae that may be located on the tower.

As noted, the previously approved special exceptions did not limit the number of antennas. This application does not propose any changes to the operational aspects of the approved special exception. The requested amendments to the approved special exception conditions pertain only to consistency with the proposed CDP.

23. Staff notes that numerous conditions were deleted with this current special exception application. The Applicant had previously stated that some conditions of approval are addressed in the proffer statement. As the SPEX is a separate governing document from the zoning map amendment, conditions of approval applicable to the use should be included with the SPEX conditions of approval and not located within the proffer statement.

As staff has pointed out, the approved CDP and proffers will become additional zoning requirements for the Property, which includes the tower lot, and will govern the use of the Property even in the event the tower use and special exception are abandoned. As noted above, none of the approved special exception conditions that pertain to the operational aspects of the tower are proposed to be changed with this application. A comparison of the approved and proposed conditions is included with this submission.

24. Original comment: The proposed SPEX plat indicates that there are 2 equipment shelters; confirm. Also, provide the maximum dimensions of the equipment shelters and height per 5-618(B)(3)(f). If the applicant wishes to have more than 2, show the location otherwise, the applicant may have to receive SPEX approval in the future to add more shelters. Comment remains outstanding as the dimensions were not provided. Pursuant to Section 5-618(C)(3)(f), the dimensions and height were not provided.

The tower height of 296 feet continues to be noted on the SPEX plat. The equipment shelters are existing, not proposed, and were permitted by the County. The requirements of Section 5-618(C)(3)(f) have been added to the SPEX plat. Inasmuch as there is no limit to the number of carriers who may locate on the tower, additional unmanned structures may be located within the screened cell tower compound to support additional carriers.

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25. *The cell tower lot shown on the SPEX plat states that it will be +/- 1.2 acres in size. However, the cell tower lot depicted on CDP Sheet #3 states "Approx. Cell Tower Lot +/- 0.6 ac." Other Sheets on the CDP state +/- 1.2 acres. Clarify this discrepancy.*

Both the CDP and SPEX plat have been revised to note a tower lot area of 0.9 acres.

26. *Staff notes that Condition #9 states that the Applicant will provide a Type 4 buffer surrounding the existing tower compound. Staff suggests that the Type 4 buffer (including opaque fence) be illustrated on the cell tower parcel that will be created for this use. Currently a portion of the Type 4 buffer is shown located on the proposed cell tower lot and a portion is shown located off of the cell tower lot.*

The intended Type 4 buffer, including a 6-foot high board-on-board stockade fence with climb barrier, is described in approved SPAM 2002-0045. Condition 9 has been revised to reference the approved SPAM. The SPEX plat has been revised to show the Type 4 buffer within the cell tower lot.

27. *Staff questions why Condition #5 is still shown in the Conditions of Approval as Section 5-618(C)(3)(c) prohibits the tower and antennas to exceed 199 feet in height.*

As discussed at our 3/11/08 meeting, Condition 5 is a carry-over from the currently approved conditions (#9) of SPEX 2005-0002. We respectfully point out that Section 5-619(C)(3)(c) does not prohibit a tower and antennas from exceeding 199 height in height if an applicant can demonstrate why a height greater than 199 feet is required. The need to locate the County's communications equipment at a height above 199 feet on the existing 296-foot tall tower was apparently clearly demonstrated at the time the County approved CMPT 2001-0026, SPEX 2001-0023 and SPEX 2005-0022.

#### **Parks, Recreation and Community Services (comments dated 3/7/08)**

1. *This project adds 145 single-family attached residential units to the Dulles District, and offers no contribution to public recreation. The Applicant should demonstrate to Staff, the Planning Commission, and the Board of Supervisors how the recreational and leisure needs of these new residents will be met without further taxing the existing public recreational facilities in eastern Loudoun. Applicant Response: The Applicant has proffered onsite playgrounds and sports courts, as well as picnic sites and gazebos, for the residents of the planned community. Please see Proffer III. Issue Status: PRCS appreciates the Applicant's contribution to the immediate community recreation needs of the future residents of this application. However, Staff still notes that these onsite amenities will not completely satisfy the recreational needs of the future residents of this project. The proposed onsite amenities will not completely mitigate the potential impact on existing public recreational facilities. Applicant Response: In addition to the onsite recreational amenities, the Applicant has also proffered a capital facilities contribution that can be used by the County to enhance public recreational facilities. Issue Status: Response acknowledged. However, Staff notes that the proffered capital facilities contribution may not adequately offset the impact to public recreation facilities caused by the application.*

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It is our understanding that the anticipated levels of service for public recreation facilities are factored into the capital facilities impact contribution amounts recommended by the County for residential rezoning applications. We respectfully point out that the Applicant has proffered the recommended capital facilities contribution to offset the anticipated capital facilities impacts of the proposed residential project.

2. *In conjunction with Comment 1, the Property is in close proximity to Edgar Tillet Memorial Park, a future park in the Brambleton community, and the future Broadlands Recreation Center. PRCS suggests that the Applicant provide a cash contribution earmarked toward the further development of these PRCS public recreational facilities. Applicant Response: As noted above, the Applicant has proffered onsite recreational amenities that address the zoning ordinance recreation space requirements and that will serve to offset the reliance of the future residents on public facilities. In addition, the Applicant has proffered a capital facilities contribution in accordance with County policies to mitigate the anticipated public impacts of the proposed community. Issue Status: In conjunction with Staff's response to Comment 1, the proposed onsite amenities will not satisfactorily offset the reliance of the future residents on public facilities. Future residents will require usage of public athletic fields, recreational and community centers, hiking trails, etc. Therefore, PRCS recommends that the Applicant proffer to further develop existing public recreational facilities within a 1-mile radius of the project area. These improvements could include, but would not be limited to, the construction of a concession/restroom facility at Edgar Tillet Memorial Park, two concession/restroom facilities at the future Brambleton ballfield complex, outfield fencing on the baseball/softball fields at Brambleton, and ballfield lighting at Brambleton. Applicant Response: As noted above, the Applicant's capital facilities contribution may be used by the County for such improvements. Issue Status: Response acknowledged. However, Staff notes that the proffered capital facilities contribution may not adequately offset the impact to public recreation facilities caused by the application.*

It is our understanding that the anticipated levels of service for public recreation facilities are factored into the capital facilities impact contribution amounts recommended by the County for residential rezoning applications. We respectfully point out that the Applicant has proffered the recommended capital facilities contribution to offset the anticipated capital facilities impacts of the proposed residential project.

3. *The Revised Countywide Transportation Plan (CTP) identifies Belmont Ridge Road (Rt. 659) as a priority bicycle route along roadways. The CTP further identifies Belmont Ridge Road (Rt. 659) ultimate design conditions as, a 6 (six) lane/120-foot ROW, and states bicycle accommodations must be considered in design and may require additional right-of-way. In addition, The Loudoun County Bicycle and Pedestrian Mobility Master Plan (BPMMP), Chapter 4(B), Land Development, Land Development Policy 6; "All land development applications shall provide bicycle and pedestrian access through the development in various directions, so as to prevent it from becoming a barrier between other trip origins and destinations in the community." PRCS recommends that the proposed 8' asphalt trail on the CDP be revised to a 10-foot wide, paved shared bicycle/pedestrian path along Belmont Ridge Road (Route 659). Applicant Response: The CDP has been revised to provide a 10-foot trail along Belmont Ridge Road (Route 659). Issue Status: Resolved.*

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Comment acknowledged.

4. *The Concept Development Plan proposes several "Playground / Sports Courts / Picnic Sites" around the Property. PRCS requests clarification and additional detailed information on the proposed uses and amenities within these recreational areas. Applicant Response: Details on the required active recreation amenities will be provided at the time of site plan. Issue Status: As part of the planning for the overall recreational needs for the citizens of the County, PRCS tracks all of the existing and planned public and private recreational amenities within the County. PRCS notes that most rezoning applications list specific uses and/or equipment to be proffered. Staff would appreciate more information about the specific uses and amenities within the recreational areas. Which types of play apparatuses will be included in the playgrounds? Will the picnic areas include pavilions? These need to be included in the proffers. Applicant Response: The details of the private recreational amenities will be known at the time of site plan review and such information will be available to PRCS. Issue Status: Response acknowledged. Staff requests the opportunity to review all future applications on the subject properties.*

Comment acknowledged.

5. *It appears that the Concept Plan shows potential impacts to wetlands. The applicant should demonstrate to Staff, the Planning Commission, and the Board of Supervisors how the potential impact to wetlands will be mitigated. Applicant Response: Wetland mitigation will be addressed through the COE permitting process. Issue Status: Resolved.*

Comment acknowledged.

6. *It appears that the Applicant is proposing to place the remaining portions of wetlands within open space. Staff recommends that the open space have a Resource Management Plan that addresses the use, maintenance, target vegetation, wildlife management goals and methods, and other aspects of sustaining a functional and attractive natural, open space area. The management plan should also address how watershed protection is to be applied to ensure a healthy stream, diverse aquatic life, stable stream banks, and vibrant native vegetation. In addition, the management plan may also include opportunities and requirements for stream restoration. Applicant Response: Wetland mitigation will be addressed through the COE permitting process. Issue Status: Response noted. However, Staff notes that wetland mitigation through the COE process is different than providing a separate resource management plan for the use of the future HOA. Applicant Response: Compliance with the approved wetland permits, and with the approved proffers and the approved CDP regarding all common open space areas, will be the responsibility of the HOA. Issue Status: Response acknowledged. However, Staff notes that HOAs and their management companies and contractors are typically ill-equipped to properly preserve and manage natural open space. Staff still recommends providing a resource management plan for use by the future HOA.*

In addition to the COE permit restrictions, which will protect wetland areas, the proffered tree conservation areas will be protected by tree preservation easements, which will run to the County, that will safeguard the tree canopy.

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7. *PRCS strongly supports any efforts to protect and preserve wetlands, trees, and native vegetation because these contribute directly to protecting the health of surface water, groundwater, air quality, and aesthetics – all of which contribute to the health of the community's residents. Staff recommends that any substantial "tree save" area has a Forest Management Plan that addresses the use, maintenance, target vegetation, wildlife management goals and methods, and other aspects of sustaining a functional and attractive natural area. The management plan should address how multiple layers – overstory, understory, shrub and herbaceous layers – will be maintained to ensure the health and functionality of the vegetated open space. Applicant Response: The Applicant's commitment to tree conservation is provided in Proffer VII.A. Issue Status: Resolved.*

Comment acknowledged.

**Virginia Department of Transportation (comments dated 3/11/08)**

1. *A satisfactory resolution for the improvements of Belmont Ridge Road, Route 659, in front of the property, will be achieved conforming to the requirements of Loudoun County and Virginia Department of Transportation (VDOT), prior to development of construction plans.*

Comment acknowledged. Proffer V.C. provides for either the construction of an improved two-lane section on Belmont Ridge Road or a contribution of \$2.5M for regional transportation improvements.

**Community Planning, Department of Planning (comments dated 3/11/08)**

*Staff requests that the applicant commit to a detailed Concept Development Plan inclusive of residential unit types, traffic/pedestrian networks, parks and open space to ensure that the proposed development is in conformance with Plan policies. Staff recommends that additional interior open space be provided to better serve the residential community.*

The CDP has been revised to depict the mix of residential unit types, the traffic/pedestrian networks and the various open space areas, as requested. The 14.1 acres of open space depicted on the CDP represents 36% of the total site area and exceeds the 30% open space recommended by the RGP. With respect to the request for additional interior open space, we respectfully point out that all proposed units are within 800 feet of an active recreation open space area and that the majority of units either abut or are in close proximity (250 feet or less) to areas of natural or other passive open space. The open space areas designated on the CDP exceed the RGP's goal of providing open space within 1,500 feet of all residential units.

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We believe this response letter, the revised rezoning plans and the revised draft proffers address the review comments. Please do not hesitate to contact me if you have any questions that we can address prior to the April 17<sup>th</sup> Planning Commission public hearing.

Very truly yours,

Cooley Godward Kronish LLP

Jeffrey A. Nein, AICP  
Senior Land Use Planner

Enclosures

cc: Kevin Fleming, K. Hovnanian Homes of Virginia, Inc.  
William E. Fissel, P.E., Dewberry  
Christopher M. Tacinelli, P.E., Gorove/Slade Associates  
Antonio J. Calabrese, Esq., Cooley Godward Kronish LLP

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